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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **BAIL APPLN. 3862/2023**

AMIT KUMAR RAY

..... Petitioner

Through: Mr. Shashi Shanker, Ms. Gargi Singh,
Ms. Swati, Advocates.

versus

STATE GOVT OF NCT DELHI

..... Respondent

Through: Mr. Laksh Khanna, APP for State
with SI Vandana PS GK-1, New
Delhi.

Mr. Shakeel Abbas, Advocate for
prosecutrix.

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

01.02.2024

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1. By way of present bail application filed under Section 439 Cr.P.C., the applicant seeks regular bail in FIR No. 170/2022 registered under Section 376 IPC and 6/21 of POCSO Act at Police Station Greater Kailash-I, New Delhi.

2. Learned counsel for the applicant contends that the applicant is 19 years of age and is in custody since 13.08.2022. He was residing in the neighbourhood of the prosecutrix and present complaint has been filed only to pressurise him to marry the prosecutrix. The complaint was filed after a delay of more than six months. The prosecutrix has been examined and in her testimony, she stated that initially the applicant had promised marriage but later, refused. It is further stated that as per prosecution case, the prosecutrix was more than 17 years of age even though no date of birth record is available and as per the bone ossification test, the age of



prosecutrix is determined as between 18-19 years. Further, in the trial, the aunt of the prosecutrix has been examined who admitted that the marriage of applicant was fixed with the prosecutrix as they were in love with each other. He further states that prosecutrix has refused for medical examination.

3. The bail is vehemently opposed by the learned APP for the State duly assisted by learned counsel for the prosecutrix. He states that prosecutrix in her testimony has supported the case of the prosecution. He further states that though no birth certificate was found, the school record shows that the prosecutrix was over 17 years of age at the time of the incident. He further states that two witnesses have been examined and the remaining twenty witnesses are school witnesses or formal witnesses.

4. Apparently, the applicant and the prosecutrix were living in the neighbourhood wherein they were known to each other and there were talks of their marriage as reflected in the testimony of the prosecutrix and her aunt. The prosecutrix being over 17 years of age was in the age of discretion. She has refused medical examination.

5. Considering the totality of the facts and circumstances coupled with the fact that applicant is 19 years of age and further that the prosecutrix has been examined/cross examined and also the fact that applicant is in custody since 13.08.2022, it is directed that the applicant be released on regular bail subject to his furnishing a personal bond in the sum of Rs.25,000/- with one surety of the like amount to the satisfaction of the concerned Jail Superintendent/concerned Court/Duty M.M. and subject to the following further conditions :-

i) The applicant shall not leave the NCR without prior permission of the concerned Court.



- ii) The applicant shall remain available on his father's Mobile No.8130638706 during the pendency of the trial.
 - iii) In case of change of residential address or contact details, the applicant shall promptly inform the same to the concerned Investigating Officer as well as to the concerned Court.
 - iv) The applicant shall not directly/indirectly try to get in touch with the complainant or any other prosecution witnesses or tamper with the evidence.
 - v) The applicant shall regularly appear before the concerned Court during the pendency of the trial.
6. The bail application is disposed of in the above terms.
7. Copy of the order be communicated to the concerned Jail Superintendent electronically for information.
8. Copy of the order be uploaded on the website forthwith.
9. Needless to state that nothing observed hereinabove shall amount to an expression on the merits of the case and shall not have a bearing on the trial of the case as the same has been expressed only for the purpose of the disposal of the present bail application.

MANOJ KUMAR OHRI, J

FEBRUARY 1, 2024/rd