



\$~11

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

+ **BAIL APPLN. 2724/2024**

DEEPAK

.....Petitioner

Through: Mr. M. Naushad, Advocate.

versus

THE STATE NCT OF DELHI & ANR.Respondents

Through: Mr. Nawal Kishore Jha, APP for State
with SI Vidhi, PS Okhla Indl. Area.
Mr. Vaibhav Tomar, Amicus Curiae
with Mr. Prabhjot Singh Dhillon,
Advocate for prosecutrix with
prosecutrix in person.

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

%

25.10.2024

1. By way of present bail application, the applicant seeks regular bail in FIR No. 291/2023 registered under Sections 376/363 IPC and Section 6 POCSO Act at P.S. Okhla Industrial Area, Delhi.
2. Learned counsel for the applicant/petitioner submits that prior to the registration of the FIR, a missing report was lodged by the father of the prosecutrix on 22.05.2023. It is stated that the applicant was the neighbor of the prosecutrix and that both the applicant and the prosecutrix used to like each other. It is further submitted that the prosecutrix left with the applicant on her own accord and will. In this regard, learned counsel has referred to the statement of one *Nabi Ahmad*, the son of the landlord, who had stated that the applicant and the prosecutrix had lived together in their premises for a period of one month. He further stated that both applicant and the



prosecutrix had disclosed that they were married to each other. The prosecutrix was 17½ years of age at the time of the alleged incident and even in the history of assault given at the time of recording of the MLC, she had stated that she went with the applicant of her own will. It was only later that she had stated under pressure that the physical relations were forcible. Lastly, it is submitted that the prosecutrix has already been examined and no further material witnesses are remaining to be examined.

3. The bail application is opposed by learned APP for the State duly assisted by Mr. Vaibhav Tomar, learned Amicus Curiae, who was appointed to represent the prosecutrix. It is stated that the prosecutrix was a minor at the time of the commission of the offence and as such, there was no valid consent. It is further submitted that in all her statements including her testimony before Court, she has supported the allegations that the relations were established forcefully. It is also pointed out that at the time of recovery, she was also found to be 10 weeks pregnant. It is also stated that the record of MTP has also been filed alongwith the chargesheet.

4. I have heard learned counsels for the parties and perused the material on record.

5. It is noted that the applicant is in custody since 20.06.2023. The perusal of the facts would reveal that both the applicant and the prosecutrix were living in the same vicinity and known to each other. The initial statement of the prosecutrix was that she had left her house of her own will. To this extent, there is also statement of *Nabi Ahmed*. Even though in her subsequent statements under Section 161 Cr.P.C., Section 164 Cr.P.C. as well as her court testimony, the prosecutrix had alleged forcible sexual relations, however, considering the fact that she was in the age of discretion



and the further fact that she has been examined as well as keeping in mind the period of custody of the applicant, it is directed that the applicant be released on regular bail subject to him 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 J.M./Link J.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 provide his mobile number to the Investigating Officer on which he will remain available 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 this Court has not expressed any opinion on the merits of the case and have made the observations only with regard to present bail applicant and 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

OCTOBER 25, 2024

akc