



\$~8

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

+ **BAIL APPLN. 2752/2024**

IMRAN @ IMMAN

.....Petitioner

Through: **Mr. Brijesh Kumar Sharma & Mr.
Sanjay Kumar Singh, Advs.**

versus

THE STATE NCT OF DELHI AND ANR

.....Respondents

Through: **Mr. Amit Ahlawat, APP along
with Ms. Shruti Tandon Mr. Mitul
Sehrawat, Mr. Litesh Batra, Shivani
Verma, Ms. Paulmi Yadav & Mr.
G.M Thakur, Advs.
Mr. Sanjay Kumar Meena, Inspector.**

CORAM:

HON'BLE MR. JUSTICE ANISH DAYAL

ORDER

06.09.2024

%

1. This petition has been filed seeking regular bail in FIR No.317/2019 PS Narela under Sections 363/376/376A/376(2)/302 IPC and Sections 5(m) and 6 of the POCSO Act.
2. The case of the prosecution is that on 15th June, 2019, complainant, the mother of victim, stated that her daughter, aged 8 years, has been missing since 14th June, 2019 at around 6 p.m. from her house.
3. When she did not return, the parents made a search, but was not found, and the FIR was registered under Section 363 IPC.
4. On 16th June, 2019, during the course of the investigation, a dead body was found by the police in the bushes near an old abandoned sewage water plant. *Post mortem* was conducted and exhibits were preserved. Subsequently, the complaint identified the body as that of her daughter.
5. As per the status report, during the course of the investigation, one



public person, namely, *Pramod alias Chhotu* stated that he saw accused Imran taking the girl by holding her hand while another person *Sachin Sharma*, friend of the petitioner, stated that they were drinking at his house and Imran disclosed to him about committing the crime.

6. While *Pramod alias Chhotu* did not turn up for giving evidence, *Sachin Sharma* (PW5) denied the suggestion that Imran had disclosed to him that he had committed crime upon the child and abandoned her in some place.

7. The counsel for the petitioner points that the material witnesses have since been examined, and the official witnesses are being examined, at this stage.

8. The petitioner has been incarcerated since 23.06.2019 and as per the nominal roll, there is no previous enrolment and his jail conduct has been satisfactory (except for one punishment on 1st July, 2019). He has till date not availed any interim release on bail.

9. The Status Report for points out that the only other circumstantial evidence is that the factory owner and other labourer of the pickle factory where Imran used to work stated that on 14th June, 2019, Imran left the factory and returned on 15th June, 2019. However, this in itself may not implicate the petitioner. The FSL report is still awaited, however, since the petitioner has been in a prolonged incarceration for more than five years, material witnesses have been examined, and the petitioner has no previous involvement, and that the trial in the matter is likely to take some time, and it would not be prudent to keep the petitioner behind bars for an indefinite period, this Court finds it to be a fit case for grant of bail to the petitioner.

10. The Hon'ble Supreme Court in *Satender Kumar Antil v. CBI*, (2022)



10 SCC 51, observed as follows:

“12. The principle that bail is the rule and jail is the exception has been well recognised through the repetitive pronouncements of this Court. This again is on the touchstone of Article 21 of the Constitution of India...”

(emphasis added)

11. The Hon’ble Supreme Court also noted the observations made by Krishna Iyer, J., in ***Gudikanti Narasimhulu v. Public Prosecutor***, (1978) 1 SCC 240, as under:

“1. ... the issue [of bail] is one of liberty, justice, public safety and burden of the public treasury, all of which insist that a developed jurisprudence of bail is integral to a socially sensitised judicial process. ... After all, personal liberty of an accused or convict is fundamental, suffering lawful eclipse only in terms of “procedure established by law. The last four words of Article 21 are the life of that human right.””

(emphasis added)

12. The Hon’ble Supreme Court further made note of their observations in ***Sanjay Chandra v. CBI***, (2012) 1 SCC 40, as under:

“21. In bail applications, generally, it has been laid down from the earliest times that the object of bail is to secure the appearance of the accused person at his trial by reasonable amount of bail. The object of bail is neither punitive nor preventative. Deprivation of liberty must be considered a punishment, unless it is required to ensure that an accused person will stand his trial when called upon. The courts owe more than verbal respect to the principle that punishment begins after conviction, and that every man is deemed to be innocent until duly tried and duly found guilty.

22. From the earliest times, it was appreciated that detention in custody pending completion of trial could be a cause of great hardship. From time to time, necessity demands that



some unconvicted persons should be held in custody pending trial to secure their attendance at the trial but in such cases, “necessity” is the operative test. In this country, it would be quite contrary to the concept of personal liberty enshrined in the Constitution that any person should be punished in respect of any matter, upon which, he has not been convicted or that in any circumstances, he should be deprived of his liberty upon only the belief that he will tamper with the witnesses if left at liberty, save in the most extraordinary circumstances.”

(emphasis added)

13. Consequently, the petitioner is directed to be released on bail, if not required to be in custody in any other matter, on furnishing a personal bond in the sum of Rs. 25,000/- with one surety of the like amount, subject to the satisfaction of the Trial Court, further subject to the following conditions:

- i. Petitioner will not leave the country without prior permission of the Court.
- ii. Petitioner shall provide permanent address to the Trial Court. The petitioner shall intimate the Court by way of an affidavit and to the IO regarding any change in residential address.
- iii. Petitioner shall appear before the Court as and when the matter is taken up for hearing.
- iv. Petitioner shall join investigation as and when called by the IO concerned.
- v. Petitioner shall provide all mobile numbers to the IO concerned which shall be kept in working condition at all times and shall not switch off or change the mobile number without prior intimation to the IO concerned.



- vi. Petitioner will mark presence physically before the concerned I.O. every first and third Monday of every month at 4 p.m., and will be not kept waiting for more than an hour.
- vii. Petitioner shall not indulge in any criminal activity and shall not communicate with or come in contact with any of the prosecution witnesses, the complainant/victim or any member of the complainant/victim's family or tamper with the evidence of the case.
14. Needless to state, but any observation touching the merits of the case is purely for the purposes of deciding the question of grant of bail and shall not be construed as an expression on merits of the matter.
15. Copy of the order be sent to the Jail Superintendent for information and necessary compliance.
16. Accordingly, the petition is disposed of. Pending applications (if any) are disposed of as infructuous.
17. Order be uploaded on the website of this Court.

ANISH DAYAL, J

SEPTEMBER 6, 2024

Ch

Click here to check corrigendum, if any