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IN THE HIGH COURT OF DELHI AT NEW DELHI

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BAIL APPLN. 2753/2024

ANKIT SANT

.....Petitioner

Through: Mr. Hardayal Singh, Advocate

versus

NCT OF DELHI & ANR.

.....Respondents

Through: Mr. Nawal Kishor Jha, APP for State

with SI Narender, PS Vikaspuri

Ms. Neeti Bhardwaj, Amicus Curiae for
respondent No.2

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

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21.08.2024

1. By way of the present bail application, the petitioner/applicant seeks regular bail in FIR No. 709/2023 registered under Sections 363/376/506 IPC and Section 6 POCSO Act at P.S. Vikaspuri, Delhi.
2. Learned counsel for the applicant submits that the present FIR came to be lodged on 17.12.2023 at the behest of the father of the prosecutrix who reported her missing since the previous day. The prosecutrix was recovered on 19.12.2023 and her first statement under Section 164 Cr.P.C. was recorded on 20.12.2023. In the said statement, the prosecutrix stated that on 16.12.2023, she had an altercation with her parents and went to the house of her *Mausi* in Etah, Mainpuri, Uttar Pradesh. Later, she informed her parents of her whereabouts telephonically following which her parents reached there and brought her back. Furthermore, she categorically stated that no incident in the nature of a crime or wrongdoing occurred with her and she had left the house out of her own free will. After about two months, her second statement was recorded under Section 164 Cr.P.C. on 23.02.2024 wherein



she for the first-time levelled allegations against the present applicant. The applicant came to be arrested on 19.04.2024.

It is further submitted that at the time of the incident, while the prosecutrix was a minor, the applicant was also a student aged about 19 ½ years. Even as per the subsequent statement of the prosecutrix, the applicant and the prosecutrix had come to know each other through Instagram and they were having a consensual romantic relationship. The applicant had refused to marry the prosecutrix as she was a minor and the present FIR has been registered only at the behest of her parents to put pressure on the applicant.

3. Learned APP for the State, duly assisted by learned Amicus Curiae, who was appointed to represent the prosecutrix, has opposed the bail application. It is stated that as per the school records, the prosecutrix was 16 ½ years of age at the time of the incident. The second statement recorded under Section 164 Cr.P.C. was preceded by a statement recorded under Section 161 Cr.P.C. on 21.02.2024 wherein also similar allegations were levelled against the applicant. It is stated that the second statement was recorded on the directions of the Chairman of CWC.

4. I have heard learned counsels for the parties as well as learned APP for the State. As noted above, the FIR came to be registered by the complainant when his daughter i.e., the prosecutrix went missing from her own house and initially, a case was registered under Section 363 IPC. She was recovered after three days from Uttam Nagar Bus Terminal. The prosecutrix was taken to DDU Hospital for her medical examination where she had stated that no wrong act was committed and had also denied permission for her internal medical examination. She was also counseled by



a DCW CIC counselor whereafter her first statement under Section 164 Cr.P.C. came to be recorded in which she again did not level any allegation against the applicant. After about two months, she was again taken for counseling to CWC, Hari Nagar where she disclosed for the first time that she was sexually assaulted by the applicant. The second statement under Section 164 Cr.P.C. came to be recorded wherein allegations of forceful physical relations against the applicant were recorded. It is contended on behalf of the applicant that the second statement came to be recorded at the behest of the parents of the prosecutrix to put pressure on the applicant to marry her.

5. Without commenting on the merits of the contentions and bearing in mind that neither in her initial statement to the police nor in the first statement recorded under Section 164 Cr.P.C. any allegations have been made against the applicant coupled with the fact that the medical examination was also refused by the prosecutrix as well as considering the factum of the age of the applicant who was stated to be a student at the time of the incident, 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 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 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.
 - 10. This Court appreciates the assistance provided Ms. Neeti Bhardwaj, learned Amicus Curiae for respondent No.2. It is, however, noted that in the summary placed on record by her, inadvertently, the details relating to the prosecutrix have come up in some places. The Registry is directed to immediately redact any reference to the identity of the prosecutrix/respondent No.2 from the document.

MANOJ KUMAR OHRI, J

AUGUST 21, 2024

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