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

(15)+ BAIL APPLN. 4088/2023

DINESH SHARMA

..... Applicant

Through: Mr.Hemant Kapoor &
Ms.Sakshi Verma, Advs.

versus

GOVT OF NCT OF DELHI

..... Respondent

Through: Mr.Aman Usman, APP.
SI Pravesh, PS Nihal Vihar,
Delhi.
Complaint/victim present in
person.

(16)+ BAIL APPLN. 4242/2023

NAWAL KISHORE @ GUDDU

..... Applicant

Through: Mr.J.K. Tripathi, Adv.

versus

STATE OF NCT OF DELHI

..... Respondent

Through: Mr.Aman Usman, APP.
SI Pravesh, PS Nihal Vihar,
Delhi.
Complaint/victim present in
person.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER

24.01.2024

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1. These applications have been filed under Section 439 of the Code of Criminal Procedure, 1973 (in short, 'Cr.P.C.') by the applicants seeking release on regular bail in FIR No.121/2023 registered with Police Station: Nihal Vihar, New Delhi under Section 363 of the Indian Penal Code, 1860 (in short, 'IPC'). Based on the



investigation, charge-sheet under Sections 363/376(2)(n)/370/370A/34 of the IPC and Section 6 of POCSO Act, 2012 stands filed against the applicants.

2. It is the case of the prosecution that on 20.01.2023, the father of the victim had made a complaint at Police Station: Nihal Vihar that the victim has been missing from her house. Later, the victim was recovered from the residence of the applicant-Dinesh Sharma at Village-Mehra, Police Station- Amayan, District Bhind, Madhya Pradesh. In her statement under Section 164 of the Cr.P.C., the victim stated that she has married the applicant-Dinesh Sharma. She further stated that she had run away from home and had met one person, namely, Kushwaha, who took her to Gwalior and told her that he wanted to marry her. Later, he took her to Nawal Kishore @ Guddu Baba (applicant in Bail Appln. 4242//2023), who was in a temple and who is stated to have asked her that if she would like to marry Kushwaha. As she refused, Guddu Baba and Kushwaha took her to Dinesh's house. It is further stated that Kushwaha asked Dinesh's parents for Rs.40,000/- to bring her and after taking Rs.40,000/- from Dinesh and his family members, they both left her with them. Dinesh married the victim on 10.02.2023. It is alleged that thereafter, Kushwaha demanded further money from the family members of Dinesh, who flatly refused.

3. In her statement under Section 164 of Cr.P.C., the victim has herself stated that she is happily married to Dinesh and does not have any complaints against him. This statement has also been reiterated by her before the learned Trial Court in her statement recorded on



02.01.2024 and before this Court.

4. The learned counsel for the applicant-Dinesh Sharma submits that the applicant-Dinesh Sharma did not have any criminal intention against the victim and, in fact, he has married her. He submits that the applicant-Dinesh Sharma does not have any criminal antecedents and is a man of family with roots in the society. He submits that the applicant-Dinesh Sharma has been in custody since 31.07.2023. He submits that the victim has stated that she has no objection if bail is granted to the applicant-Dinesh Sharma, as is duly recorded in the order dated 19.09.2023 of the learned Trial Court.

5. The learned counsel for the applicant-Nawal Kishore @ Guddu Baba submits that the only allegation against Nawal Kishore @ Guddu Baba is that he introduced the victim to the accused Dinesh Sharma, who has, in fact, as is evident from the above, married the victim. He submits that though there are allegations that he took money, the same are primarily addressed to the co-accused Kushwaha, who has still not been apprehended. He submits that the applicant-Nawal Kishore @ Guddu Baba also does not have any other criminal antecedents and is engaged in spiritual activities. He submits that the applicant has been in custody since 04.08.2023.

6. On the other hand, the learned APP for the State submits that in her statement recorded under Section 164 Cr.P.C., the victim had mentioned about the sexual assault on her by Kushwaha. She had also stated that she had been sold by Kushwaha and Nawal Kishore @ Guddu Baba to Dinesh Sharma. He submits that, therefore, there are serious allegations against the applicants and they should not be



released on bail.

7. I have considered the submissions made by the learned counsels for the parties.

8. The victim is present in Court. She reiterates that she is happily married to applicant-Dinesh Sharma and does not wish to pursue the criminal case against him. I have also perused her statement recorded before the learned Metropolitan Magistrate, Mahila Court, West District, Tis Hazari Courts, under Section 164 Cr.P.C. as also the statement recorded before the learned Trial Court. It appears that she is happily married to Dinesh Sharma.

9. Keeping in view the above, as far as the applicant-Dinesh Sharma is concerned, he has made out a case for being released on bail.

10. Coming to the case against the applicant-Nawal Kishore @ Guddu Baba, the victim in her statement under Section 164 Cr.P.C. had stated that the accused Nawal Kishore @ Guddu Baba had asked her that if she would like to marry Kushwaha and on her refusal, he had taken her to Dinesh Sharma. Though there is also an allegation of him demanding Rs.40,000/- from Dinesh Sharma and his family, these allegations are to be proved at an appropriate stage during trial. The accusation also appears to be primarily addressed to the co-accused Kushwaha. The accused Nawal Kishore @ Guddu Baba has been in custody since 04.08.2023. The charge-sheet already stands filed and the statement of the victim has already been recorded before the learned Trial Court.

11. Keeping in view the peculiar facts of the present case,



applicant- Nawal Kishore @ Guddu Baba has also made out a case of being released on bail.

12. Accordingly, it is directed that the applicant-Dinesh Sharma (in BAIL APPLN. 4088/2023), as also the applicant-Nawal Kishore @ Guddu Baba (in BAIL APPLN. 4242/2023), be released on bail in FIR No.121/2023 registered with Police Station: Nihal Vihar, New Delhi on furnishing a personal bond in the sum of Rs.25,000/- each, with one local surety each, of the like amount, subject to the satisfaction of the learned Trial Court, and further subject to the following conditions:

- i. The Applicant(s) will not leave the country without the prior permission of the learned Trial Court.
- ii. The Applicant(s) shall provide his permanent address to the learned Trial Court. The applicant(s) shall also intimate the Court by way of an affidavit and to the IO regarding any change in his residential address.
- iii. The Applicant(s) shall appear before the learned Trial Court as and when the matter is taken up for hearing.
- iv. The Applicant(s) shall provide all/latest/fresh mobile numbers to the IO concerned, which shall be kept by the applicant(s) in a working condition at all times and shall not be switched off or changed by him without prior intimation to the learned Trial Court and the IO concerned. The mobile location be kept on at all times.
- v. The Applicant(s) shall not indulge in any criminal activities.



13. Needless to state, 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 the merits of the matter.

14. The Bail Applications are disposed of in the above terms.

15. Copy of this order be sent to the Jail Superintendent for information and necessary compliance.

16. *Dasti.*

NAVIN CHAWLA, J

JANUARY 24, 2024/rv/AS

Click here to check corrigendum, if any