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

+ **BAIL APPLN. 2833/2024**

MOHD HASHIM RAZA

.....Petitioner

Through: **Ms. Dolly Sharma, Adv.**

versus

STATE OF NCT OF DELHI

.....Respondent

Through: **Ms. Priyanka Dalal, APP for State
and SI Anil Kumar, PS Jamia Nagar.
Mr. Alamdar Husain Naqvi, Adv. for
complainant (VC).**

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

ORDER
18.09.2024

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1. The present bail application has been filed under Section 439 r/w Section 482 Cr.P.C. for regular bail in case FIR No. 344/2020 dated 14.11.2020 under Section 376 IPC and Section 6 POCSO Act registered at PS Jamia Nagar.
2. Briefly stated the facts are that on 14.11.2020 a PCR call was received at PS Jamia Nagar wherein caller alleged that “*ek ladke ne kai baar rape kiya hai or ab caller ko black mail kar raha hai aur jaan se maarne ki dhamki de raha*”. On the basis of PCR call victim as aged 21 years came to the police station and gave her written complaint wherein she stated that she is a student of BA Second Year and she knows the petitioner since 04 years back, who lived in the vicinity. The victim alleged that the petitioner had been stalking her on her way to school. It



was alleged that the proposal made by the accused was declined by the prosecutrix. However, the accused threatened to commit suicide if the victim rejects his proposal. Allegedly, the accused called the victim to Tikona Park, where he proposed her. During this time he took her photographs. The victim asked the accused to delete the same. But the petitioner did not delete those photographs and clicked 2-3 selfies. Allegedly, thereafter the petitioner started black mailing the victim by saying that he will send these photographs to her brother.

3. Allegedly, the petitioner called the victim to his room on the pretext of the same and when she went to his room. The petitioner allegedly gave her some water and after drinking the same, the victim became unconscious. The victim on gaining consciousness found that she was nude and felt some pain between her legs and started crying. However, the petitioner threatened the victim. Therefore due to the threats extended by the petitioner she did not disclose it to anyone. The victim alleged that at the time of incident she was around 16-17 years old. It has also been alleged that the petitioner also took some bad photographs, blackmailed her and also threatened her to share those photographs on whatsapp.
4. Allegedly on 06.06.2020 the victim went to teach a lesson to the petitioner. However, the petitioner again took the victim to a room and again committed rape. It has been alleged that the petitioner shared such photographs with her brother. During the course of investigation, the victim was medically examined. At the time of medical examination, the alleged incident was 05 months old.
5. Learned counsel submits that the petitioner was arrested on 15.11.2020



and a mobile phone and pen drive was recovered from the possession of the accused. After investigation the charge-sheet has been filed. The statement of the prosecutrix has already been recorded. Learned counsel for the petitioner submits that the FIR was lodged after around 04 years of the incident. Learned counsel submits that the petitioner is already in custody since 2020. It has been submitted that the trial will take a long time and therefore the petitioner may be admitted to bail.

6. Learned APP for the state has opposed the bail application on the ground that the allegations against the petitioner are very serious in nature. The petitioner sexually assaulted the minor victim and further black mailed her. Learned APP submits that certain public witnesses are yet to be examined.
7. Learned counsel for the complainant has appeared through VC and submits that the victim has since been married and is now stated to be living in Bihar. Learned counsel further submits that if the petitioner is admitted to bail, he may threaten or intimidate the victim.
8. It is a settled proposition that at the time of considering the application for bail, the Court is required to see the gravity of offence, nature of the crime, age, criminal antecedents of the convict, impact on public confidence in court, etc. and the prima facie involvement of the accused. The court is not required to enter into detail analysis of the evidence which is required at the time of final appreciation of evidence. The court is only required to examine the prima facie case if made out on the basis of evidence on record.
9. In the present case, admittedly the FIR was lodged after around 04 years. The prosecutrix in the FIR has alleged that the petitioner has



sexually assaulted her around 04 years back and the last sexual assault was alleged to be 05 months old. The testimony of the prosecutrix has already been recorded. Learned APP for the state submitted that there are 25 witnesses and only 03 witnesses have been examined. On being asked, learned APP for the State submits that the public witnesses who are left to be examined are the brother of the victim, friend of the victim and the landlord.

10. I have seen the statement of these witnesses recorded under Section 161 Cr.P.C. It is also pertinent to mention here that the FIR was lodged around 04 years. It is not the case of the prosecution during those 04 years that the prosecutrix was kept under some lock and key or the redressal mechanism was not available. The petitioner is in custody since 15.11.2020. The petitioner is stated to be around 26 years of age and the trial may take a long time.
11. In view of the fact and circumstances, the petitioner is admitted to regular bail on furnishing a personal bond of Rs. 20,000/- with one surety of the like amount subject to the satisfaction of Ld. Trial Court subject to the following conditions:
 - a) The petitioner shall attend to the trial regularly;
 - b) the Petitioner shall under no circumstances leave India without prior permission of the Court concerned;
 - c) the Petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case;
 - d) the Petitioner shall provide his/her mobile number(s) to the Investigating Officer and keep it operational at all times;



- e) In case of change of residential address and/or mobile number, the Petitioner shall intimate the same to the Investigating Officer/ Court concerned by way of an affidavit.
12. In view of the above, the present bail application stands disposed of.

DINESH KUMAR SHARMA, J
SEPTEMBER 18, 2024/AR/KR..