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

+ **BAIL APPLN. 2867/2024**

RANJEET @ MANJEET

.....Petitioner

Through: Mr. Vineet Jain, Adv.

versus

STATE OF NCT OF DELHI

.....Respondent

Through: Ms. Kiran Bairwa, APP for State and
SI Manoj Kumar, PS Nihal Vihar.

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

ORDER

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25.09.2024

1. The present Bail Application has been filed under Section 439 Cr.P.C. r/w Section 483 BNSS on behalf of the petitioner seeking grant of Regular Bail in case FIR No. 91/2024 dated 14.01.2024 under Section 376(2)(n)/323/506 IPC r/w Section 6 POCSO Act registered at PS Nihal Vihar.
2. Learned counsel for the petitioner submits that the petitioner is in custody since 24.01.2024. Learned counsel for the petitioner submits that the prosecutrix/victim and other material witness, her elder sister i.e., wife of the petitioner/accused has also been examined. Learned counsel submits that the prosecutrix/victim has not supported the case of the prosecution and has turned hostile. Learned counsel therefore submits that the petitioner may be admitted to bail.
3. Learned APP for the State has opposed the grant of bail on the ground



that the victim has made consistent statement which has been recorded under Section 164 Cr.P.C. corroborating the version made by her in the FIR. Learned APP also submits that as per FSL report vaginal swab has matched on the undergarments of the victim with the samples of the petitioner. Learned APP submits that in these circumstances the petitioner may not be admitted to bail.

4. The case in brief herein is that the prosecution/victim who is the younger sister of the wife of the petitioner made allegations of sexual assault upon the petitioner. However, subsequently while making statement before the Court the prosecutrix stated that she had made the false allegations at the asking of someone else. The prosecutrix also stated that the undergarments given to the police were of her elder sister.
5. The Court at the stage of bail cannot meticulously examine the merits of the case, nor can the probative value of the witness can be seen at this stage. The plea of learned APP that the person can be convicted even if the victim has turned hostile if the FSL report is positive, can be considered at the time of trial. The detention during the course of the trial cannot be turned into a punitive measure. The purpose of keeping a person in custody during the trial is to ensure his presence.
6. I consider that without making any further comments on the merits of the case, 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 cooperate in the investigation and appear before the Investigating Officer of the case as and when required;
 - 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.
7. Copy of this order be sent be sent to concerned Jail Superintendent.
 8. In view of the above, the present Bail Application along with pending applications, if any, stands disposed of.

DINESH KUMAR SHARMA, J

SEPTEMBER 25, 2024/AR/DG..