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

+ **BAIL APPLN. 4143/2023**

SHRI RAJEEV

..... Petitioner

Through: Mr.Kamlesh Kumar, Advocate

versus

STATE NCT GOVT OF DELHI & ANR.

..... Respondents

Through: Mr.Sanjeev Sabharwal, APP for State

with WASI Saroj

Ms.Astha, Advocate (DHCLSC) with prosecutrix

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

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19.03.2024

1. By way of present application filed under Section 439 Cr.P.C., the petitioner/applicant seeks regular bail in FIR No.361/2023 registered under Section 376(2)(n)/506/342/377 IPC and Section 6 of the POCSO Act at P.S. Khyala, Delhi.
2. Learned counsel for the applicant submits that the applicant has been falsely implicated in the present case at the instance of parents of the prosecutrix in a bid to extort money from the applicant. He further submits that incident is alleged to have been committed in a densely populated area. He further submits that though as per the initial complaint, the incident first occurred on 06.07.2023, however the FIR came to be registered after a delay of nearly 14 days and as such, even the MLC does not support the prosecution case. He further submits that the victim has been examined and she too has not supported the prosecution case inasmuch as she has denied her signatures on the complaint as well as on the MLC. Lastly, it is submitted that there are no material witnesses and that the applicant is in



custody since 20.07.2023 and is not involved in any other case.

3. Learned APP for the State, duly assisted by Ms.Astha, learned panel counsel appointed to represent the victim, has vehemently opposed the bail application. It is stated that at the time of commission of the offence, the victim was aged about 15 years and in her statement given to the police as well as recorded before the learned MM under Section 164 Cr.P.C., she had narrated the incident which would show that it was the present applicant who had committed the offence of rape upon her. Learned APP, however on instructions, confirms that the victim has now been examined and has not supported the prosecution case.

4. I have heard the learned APP for the State as well as learned counsel for the applicant and have also gone through the material placed on record.

5. The statement of the prosecutrix has been handed over in Court today. A reading of the same would show that the prosecutrix appeared before the trial court for her testimony initially on 15.02.2024 when she stated that on account of being expelled from her job, she initially thought that the same was done at the behest of applicant and the complaint was filed in a fit of anger in response to the same. She was resummoned on 07.03.2024 when she again repeated her statement. She was declared hostile and was cross-examined by learned APP for the State when she denied the contents of her complaint as well as the statement recorded under Section 164 Cr.P.C. by learned MM. She also denied the case history recorded in the MLC.

6. Keeping in view the aforesaid facts and circumstances including the fact that the prosecutrix stands examined, the applicant is directed to be released on regular bail on his furnishing a personal bond in the sum of Rs.25,000/- with one surety of like amount to the satisfaction of the



concerned Jail Superintendent/Duty M.M./Trial Court and subject to the further following further conditions:-

- (i) The applicant shall not leave the NCT of Delhi without prior permission of the concerned Court.
 - (ii) At the time of furnishing bail bond, the applicant shall provide the mobile number, which he undertakes to keep operational at all times during the pendency of the trial.
 - (iii) In case of change of residential address or contact details, the petitioner shall promptly inform the same to the concerned IO 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.
7. The application stands disposed of in the above terms.
 8. Copy of this order be communicated electronically to the concerned Jail Superintendent for information.
 9. Copy of this order be uploaded on the website forthwith.
 10. 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 observations are only for the purpose of the disposal of the present application.

DASTI.

MANOJ KUMAR OHRI, J

MARCH 19, 2024/na