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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 2876/2024**

DHIRAJ KUMARPetitioner

Through: Mr. Murari Kumar, Adv.

versus

THE STATE OF NCT OF DELHIRespondent

Through: Mr. Manoj Pant, APP for
the State
SI Kavita Bhardwaj, PS-
Shalimar Bagh
Mr. Vivek Kumar Gautam,
Adv. for prosecutrix
(through VC)

CORAM:
HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER
26.11.2024

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1. Mr. Naveen Chandra, learned counsel for the petitioner appears through video-conference and seeks discharge in the present matter.
2. The present application is filed seeking pre-arrest bail in FIR No. 83/2024 dated 11.02.2024 registered at Police Station Shalimar Bagh for offence under Section 363 of the Indian Penal Code, 1860.
3. The learned counsel for the parties including the learned counsel for the prosecutrix have been heard.
4. It remains undisputed that the prosecutrix had left the lawful custody of her parents on her own free will. She had stated that she was in a consensual romantic relationship with the applicant and had left with him. She went to the village of the applicant and got married with him. The prosecutrix is stated to



be 17 years of age.

5. While in her statement before the Child Welfare Committee, the prosecutrix mentioned that she had consensual sexual relation with the applicant, however, in her statement before the learned Magistrate under Section 164 of the Code of Criminal Procedure, 1973, no such fact was mentioned.

6. It is relevant to note that this Court, by order dated 14.08.2024, had granted interim protection to the applicant. The applicant has since joined investigation. It is not in doubt that an order for grant of pre-arrest bail cannot be passed in a routine manner so as to allow the accused to use the same as a shield. At the same time, it cannot be denied that great amount of humiliation and disgrace is attached with the arrest. In cases where the accused has joined investigation, he is cooperating with the Investigating Agency and is not likely to abscond, the custodial interrogation should be avoided.

7. The applicant is stated to be a young boy of 20 years of age. No purpose would be served by subjecting him to custodial interrogation.

8. The application is, therefore, allowed. The applicant, in the event of arrest, is directed to be released on bail on furnishing a bail bond for a sum of ₹25,000/- with one surety of the like amount subject to the satisfaction of the concerned SHO, on the following conditions:

- a. The applicant shall join and cooperate with the investigation as and when directed by the IO;
- b. The applicant shall not leave the boundaries of the country without informing the IO/ SHO concerned;
- c. The applicant shall not contact the witnesses or tamper with the evidence in any manner;



- d. The applicant shall not contact the victim or any of her family members;
- e. The applicant shall not reside within 5 km radius of the residence of the victim and shall also furnish proof of his residence to the concerned IO;
- f. The applicant shall give his mobile number to the concerned IO/SHO and shall keep his mobile phone switched on at all times;

9. In the event of there being any FIR/DD entry / complaint lodged against the applicant, it would be open to the State to seek redressal by filing an application seeking cancellation of bail.

10. It is clarified that any observations made in the present order are for the purpose of deciding the present bail application and should not influence the outcome of the trial and also not be taken as an expression of opinion on the merits of the case.

11. The application is allowed in the aforementioned terms.

AMIT MAHAJAN, J

NOVEMBER 26, 2024
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