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

+ **BAIL APPLN. 2915/2024 & CRL.M.A. 24456/2024**

JULFIKAR KHAN @ SONU

.....Petitioner

Through: Mr. Ankur Sinha, Advocate.

versus

STATE NCT OF DELHI

.....Respondent

Through: Mr. Hemant Mehla, APP for State.
Mr. Shailabh, Advocate for
complainant through VC.
S.I. Manisha Sharma, PS Sarai
Rohilla, Delhi.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

05.09.2024

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1. The present Petition under Section 439 of the Code of Criminal Procedure, 1973 has been filed on behalf of the petitioner seeking regular bail in the FIR No. 525/2022 registered under Section 376(2)(n) of the Indian Penal Code, 1860 and Section 6 of POCSO Act.
2. It is submitted in the petition that the testimony of the prosecutrix and Doctor and other material witnesses has been recorded. The statement of the prosecutrix is full of contradictions. The Doctor in her testimony has deposed that though the hymen was ruptured but there were no external injuries on the body of the prosecutrix.
3. It is further submitted that the allegation of insertion of wooden stick has been made by the prosecutrix, but the same is not corroborated by the



MLC as well as by the testimony of Dr. Deepika Agarwal.

4. It is also submitted that the petitioner is a Government employee serving in the Railways and has been in the judicial custody from 07.08.2022 and he has been suspended. Moreover, he is the only bread-earner in his entire family and his family is dependent on him and is on the verge of starvation.

5. Learned counsel for the petitioner submits that present case has been fabricated by the prosecution and the petitioner has been falsely implicated.

6. Learned counsel for the petitioner has placed reliance on the decision in State vs. Sanjay, MANU/DE/1712/2019, wherein the Division Bench of this Court in the light of the report of the Doctor, observed that no forcible sexual assault was indicated on the prosecutrix and the accused who was arrested for similar charges of rape of a mentally challenged prosecutrix, had been acquitted.

7. Therefore, it is submitted that the petitioner may be granted bail.

8. **The Status Report** has been filed on behalf of the State, wherein it is submitted that there are serious allegations of repeated rape on the prosecutrix who not only suffers from 50% mental disability, but also the petitioner is the uncle of the prosecutrix.

9. It is submitted that considering the gravity of the offence committed by the petitioner and that the prosecutrix has largely supported her allegations made in the complaint during the trial, no case is made out for grant of bail. Hence, the present petition has been opposed.

10. **Submissions heard.**

11. Essentially, the petitioner is facing the charges for the rape of the prosecutrix who had been assaulted and raped on three occasions by the



petitioner. She was aged about 16 years and is suffering from 50% mental disability.

12. The judgment in Sanjay (supra) on which the reliance has been placed on behalf of the petitioner is not attracted at this stage because those were the observations made at the time of acquittal of the accused. Thus coupled with attending circumstances, like DNA not matching, circumstance was considered for acquittal.

13. Since the trial is in progress, there can be no minute appreciation of the evidence, to ascertain whether there are marked improvements in the testimony of prosecutrix.

14. Looking at the gravity of the allegations supported by the statement of the prosecutrix and as well as that the testimony of 7 witnesses has been recorded, no case is made out by the petitioner for grant of bail.

15. Accordingly, the present petition along with pending application is hereby dismissed.

16. However, an endeavour be made by the learned Trial Court to expeditiously conclude the trial.

NEENA BANSAL KRISHNA, J

SEPTEMBER 5, 2024

S.Sharma