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

+ **BAIL APPLN. 4218/2023**

ASLAM

..... Petitioner

Through: Mr. Nitin Bansal and Mr. Madan
Kumar, Advs.

versus

STATE NCT OF DELHI

..... Respondent

Through: Mr. Ritesh Kumar Bahri, APP for
State with SI Aashish Medik, PS
South Rohini

CORAM:
HON'BLE MR. JUSTICE VIKAS MAHAJAN

ORDER
29.04.2024

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1. The present petition has been filed seeking regular bail in connection with FIR No.303/2023 under Section 376 of the Indian Penal Code, 1860 and Section 6 of the POCSO Act registered at Police Station South Rohini, Delhi.
2. The case of the prosecution is that the present FIR was registered on the complaint of the victim, wherein she stated that she is 17 years old and that her brother-in-law (*Jija*) used to talk to her over phone and would often visit her house on festivals and she liked him and wanted to marry him. On 29.06.2023 on the occasion of the *Bakrid*, he came to her house and made physical relation with her and after few days she missed her periods and on 29.07.2023 on the occasion of *Moharram*, he again came to her house and



made physical relation with her. On 19.08.2023, when she had stomach ache, her mother took her to BSA Hospital and it came to light that she has two months pregnancy. This led to the filing of the complaint at the instance of victim/complainant, which culminated into aforesaid FIR.

3. Learned counsel appearing on behalf of the petitioner submits that the relationship between the petitioner, as well as, the victim was consensual in nature. He submits that the petitioner and the victim are related to each other, inasmuch as the petitioner is married to cousin sister of the victim. He submits that the victim has even stated before the learned Trial court at the stage of consideration of the petitioner's bail application that she has no objection in case the bail is granted to the petitioner.

4. It is further the contention of the learned counsel that the antecedents of the petitioner are clean and custody of the petitioner is no more required. He, therefore, urges the Court that the petitioner may be enlarged on bail.

5. *Per contra*, learned APP has argued on the lines of the status report.

6. I have heard the learned counsel for the petitioner as well as learned APP for the State and have perused the record.

7. The prosecutrix had also submitted before the learned Trial court at the time of consideration of petitioner's bail application that she has no objection in case bail is granted to the petitioner. Even today the prosecutrix is present in the Court. On a query put to the prosecutrix, she reiterates that she has no objection if the petitioner is enlarged on bail.

8. This Court is cognizant of the fact that the prosecutrix was minor at the time of incident but at the same time it cannot be overlooked that the prosecutrix was aged about 17 years and was thus, of sufficient maturity and intellectual capacity to understand the consequences of her action. Further,



it is also the case of the prosecution that the relationship between the victim and the present petitioner/accused was consensual in nature.

9. It is not in dispute that the petitioner, as well as, the victim follow the Muslim religion and it is the case of the prosecution itself that the victim wanted to marry the petitioner. Even today the prosecutrix has stated in that Court that she has no objection in case the bail is granted to the present petitioner.

10. It is also fairly conceded by the learned APP that the petitioner does not have any criminal record nor it is the case of the prosecution that the petitioner is a flight risk. The investigation is complete and the custodial interrogation is not required.

11. Considering the aforesaid circumstances in entirety, this Court is of the view that the petitioner has made out a case for grant of regular bail. Accordingly, the petitioner is enlarged on bail subject to his furnishing a Personal Bond in the sum of Rs. 10,000/- and one Surety Bond of the like amount to the satisfaction of the Trial Court/CMM/Duty Magistrate, further subject to the following conditions:

- a) Petitioner shall appear before the Court as and when the matter is taken up for hearing.
- b) Petitioner shall provide mobile number to the IO concerned which shall be kept in working condition at all times and he shall not change the mobile number without prior intimation to the Investigating Officer concerned.
- c) Petitioner shall not indulge in any criminal activity and shall not communicate with or come in contact with the witnesses.

12. The petition stands disposed of.



13. It is clarified that the observations made herein above are only for the limited purpose of deciding the present bail application and the same shall not be construed as an expression of opinion on the merits of the case.
14. Copy of the order be forwarded to the concerned Jail Superintendent for necessary compliance and information.
15. Order *dasti* under signatures of the Court Master.
16. Order be uploaded on the website of this Court.

VIKAS MAHAJAN, J

APRIL 29, 2024

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