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IN THE HIGH COURT OF DELHI AT NEW DELHI

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BAIL APPLN. 4231/2023

SAURABH

..... Petitioner

Through: Mr. Gaurav Kochar and Mr. Bharat
Sharma, Advocates.

versus

THE STATE GOVT. OF NCT
OF DELHI AND ANR.

..... Respondents

Through: Mr. Ashneet Singh, APP for State
with WSI Parul PS Shastri Park,
Delhi.
Ms. Astha, Advocate (DHCLSC) for
complainant.

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

05.03.2024

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1. By way of present bail application filed under Section 439 read with Section 482 Cr.P.C., the applicant seeks regular bail in FIR No. 571/2020 registered under Section 376 IPC and 6 POCSO Act at Police Station Shastri Park, Delhi.
2. Learned counsel for the applicant submits that the present case came to be registered on 01.12.2020 against an unknown person at the behest of the mother of the child victim. It was stated that she suffered a stomach-ache and that when she was taken for treatment it came to their knowledge that she was pregnant and the fetus was not alive. He further states that no evidence has come on record as the child victim herself could not survive and unfortunately expired on the next day of the registration of the FIR. Further, the mother of the child victim has also not alleged anything against



the present applicant. He states that the applicant is in custody since 09.03.2021 and that the applicant is not involved in any other case.

3. The bail is vehemently opposed by the learned APP for the State duly assisted by Ms. Astha, learned counsel appearing for the complainant who confirms that no statement of the child victim either under Section 161 or 164 Cr.P.C could be recorded as she expired on the very next day of the registration of the FIR. It is also stated that the mother of the child victim has been examined, however, she has not supported the prosecution case. It is stated that the DNA profile of the foetus of the child has matched with the DNA profile of the present applicant.

4. Considering the totality of the facts and circumstances and the fact that the only material placed on record is the FSL report and that no statement/testimony is on record implicating the present applicant and the fact that the evidentiary value of the FSL report would be seen at the end of the trial, keeping in mind the period of custody undergone by the applicant and further fact that the applicant is not involved in any other case, it is directed that the applicant be released on regular bail subject to his furnishing a personal bond in the sum of Rs.25,000/- with one surety of the like amount to the satisfaction of the concerned Jail Superintendent/concerned Court/Duty M.M. and subject to the following further conditions :-

- i) The applicant shall not leave the NCR without prior permission of the concerned Court.
- ii) The applicant shall provide his mobile number to the Investigating Officer on which he will remain available during the pendency of the trial.
- iii) In case of change of residential address or contact details, the



applicant shall promptly inform the same to the concerned Investigating Officer 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.

5. The bail application is disposed of in the above terms.

6. Copy of the order be communicated to the concerned Jail Superintendent electronically for information.

7. Copy of the order be uploaded on the website forthwith.

8. 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 same has been expressed only for the purpose of the disposal of the present bail application.

MANOJ KUMAR OHRI, J

MARCH 5, 2024/rd