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

+ **BAIL APPLN. 3002/2024**

MUSTAFA

.....Petitioner

Through: Mr. R.C. Tiwari, Mr. Naushad Ali,
Ms. Pooja, Mr. Subhash Chand, Mr.
Kaushal, Advs.

versus

**THE STATE OF NCT OF DELHI THROUGH SHO PS MAIDAN
GARHI & ANR.**

.....Respondents

Through: Mr. Mukesh Kumar, APP for the
State with W/SI Neetu, PS Maidan
Garhi
Mr. Sushant Sagar, DHCLSC, Mr.
Hemant Singh, Advs. for prosecutrix

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

ORDER

14.10.2024

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1. The present application has been filed under Section 483 of BNSS seeking grant of regular bail in case FIR no. 501/2023 registered under Section 376/323/34 IPC at PS: Maidan Garhi.
2. Learned counsel for the petitioner submits that the petitioner is in custody since 16.09.2023. Learned counsel submits that the prosecutrix, in her statement made before the learned trial court, has admitted that she had known the petitioner for approximately seven to eight months before the alleged incident. Further, it has been stated that there are several inconsistencies in the testimony recorded by the learned Trial Court.



Learned Counsel for the petitioner has been submitted that taking into account the period of incarceration, the petitioner may be admitted to bail.

3. Learned APP for the State has opposed the bail application on the ground that there are specific allegations against the petitioner. It has also been submitted that the prosecutrix has supported the case of the prosecution in the statement made before the learned Trial Court.
4. The law regarding bail is well settled, and jurisprudence is more than clear that bail should ordinarily be granted unless exceptional circumstances exist. Detention during trial cannot serve as punitive detention. When considering bail, the court is required to take a prima facie view of the matter, focusing on the nature and gravity of the accusations made by the respondent/complainant, the applicant's antecedents, the likelihood of the applicant fleeing from justice, and the possibility of witness intimidation or threats, among other considerations. Importantly, the court should not meticulously evaluate the material or conduct mini-trials at this stage, as this could prejudice either the prosecution or the accused.
5. In the present case, it is a matter of record that the charge sheet has been filed. The alleged incident took place on 29.08.2023, while the FIR was lodged on 16.09.2023. In the testimony of the prosecutrix before the learned trial court, it has transpired that there was no element of force or coercion preventing the prosecutrix from reporting the matter to the police. The statement of the prosecutrix also indicates that she was well acquainted with the petitioner before the alleged incident and that she had previously been in a relationship with the petitioner.



6. In the peculiar facts and circumstances and taking into account, the period of incarceration and the fact that the petitioner was already known to the prosecutrix, the petitioner is admitted to regular bail upon furnishing a personal bond of Rs. 15,000/- with one surety of the like amount to the satisfaction of the concerned learned trial court, subject to the verification of address and provide his mobile number(s) and subject to the following further conditions:
- a) the petitioner shall regularly appear before the IO/trial court as and when directed;
 - b) the petitioner shall not directly or indirectly make any inducement, threat, intimidate or tamper with any person acquainted with the facts of the case;
 - c) the petitioner shall remain available on the address, to be given to the IO and shall not leave the country without the permission of the learned Trial Court;
 - d) In case of change of residential address and/or mobile number, the petitioner shall intimate the same to the Investigating Officer/ Court concerned by way of an affidavit.
7. With the above directions, the application is disposed of.
8. A copy of this order be sent to concerned Jail Superintendent for information and necessary compliance.

DINESH KUMAR SHARMA, J

OCTOBER 14, 2024
JN/SM..