



2024:DHC:7938



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

% **Date of order: 15th October, 2024**

+ **BAIL APPLN. 3011/2024 & CRL.M.(BAIL) 1594/2024**

RISHAB

.....Petitioner

Through: Ms. Shree Kirtee and Mr. Sunder
Singh, Advocates.

versus

STATE OF GOVT NCT OF DELHI AND ANR.Respondents

Through: Mr. Raghuinder Verma, APP along
with SI Vidhi.
Ms. Dipika Prasad, Advocate for R-2
(Amicus Curiae).

CORAM:

HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

ORDER

CHANDRA DHARI SINGH, J (Oral)

1. The instant application has been filed under Section 439 r/w 482 of the Code of Criminal Procedure, 1973 seeking grant of regular bail to the applicant/accused booked under Sections 354/354B/354D/506/323/341/34 of Indian Penal Code, 1860 ('IPC' hereinafter), read with Section 8 of Protection of Children from Sexual Offences Act, 2012 ('POCSO' hereinafter) *vide* FIR bearing no. 346/2024 at Police Station - Okhla Industrial Area, Delhi dated 29th April, 2024.

2. As per the contents of the FIR, it has been alleged by the prosecutrix/complainant/victim that on the night of 3rd April, 2024, the

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accused/applicant herein along with his brother namely Mr. Anuj were under the influence of drugs and went to the house of the victim and started hurling abuses at her family members. It is stated that the brothers then broke the door of the complainant's house and threatened to kill the victim and her family members. Thereafter, the accused allegedly touched the victim inappropriately and attempted to tear her clothes.

3. Aggrieved by the same, the mother of the prosecutrix filed a complaint leading to lodging of the FIR under Sections 451/506/34 of the IPC and the rest of the above mentioned provisions of the IPC were added subsequently.

4. The applicant/accused had previously filed for bail before the learned ASJ, Saket Court, however, the same was dismissed *vide* order dated 16th July, 2024 and the accused has now approached this Court seeking regular bail.

5. The learned counsel for the applicant/accused submitted that the present FIR came to be registered on 29th April, 2024 with respect to the alleged incident which occurred on 3rd April, 2024. She submitted that the prosecutrix and her family members did not mention about the alleged act during that time and the same was done subsequently, therefore, showing the ulterior motive of the complainant.

6. It is submitted that the accused is aged only 18 years of age and does not have any criminal antecedents and the only reason for the complaint being filed by the prosecutrix is the family brawl between the parties.



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7. It is further submitted that there are discrepancies in the statements of the prosecutrix and her mother , therefore, raising serious questions about the allegations leveled against the accused.

8. It is submitted that the applicant has not past criminal antecedents and the case of the prosecutrix is based on false and fabricated statements, thus, the same is devoid of any merits and no purpose would be served by keeping the applicant in jail.

9. In view of the foregoing submissions, the learned counsel for the applicant/accused prayed that he may be released on bail.

10. *Per Contra*, the learned APP appearing for the State vehemently opposed the present application submitting to the effect that the investigation of the case is still pending and the co-accused persons are yet to be examined.

11. It is submitted that in her statement before the Magistrate, the prosecutrix had clearly stated that the accused had beaten her family members and touched her inappropriately. It is also submitted that the accused tried to tear her clothes therefore, establishing the criminal intent to commit a heinous offense.

12. It is submitted that the applicant may not be released on bail as he might tamper with the evidence and negatively influence the trial which is at nascent stage. Therefore, it is prayed that the instant application may be dismissed.

13. Heard the learned counsel for the parties and perused the records.



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14. It is discernible from the records that the incident narrated in the present case allegedly occurred on 3rd April, 2024 where the accused persons went to the house of the prosecutrix and broke the door of her house and hurled abuses to the family members, and also allegedly touched the prosecutrix inappropriately.

15. At this stage, it is pertinent to note that the prosecutrix's mother did not state anything regarding the same during the time of lodging of the FIR and the relevant sections of the POCSO were only added subsequently. The status report filed by the police also depicts the same where it has been stated that the prosecutrix had mentioned about the alleged harassment in her 164 CrPC statement.

16. The relevant material on record makes it clear that the prosecutrix duly apprised her mother about the said incident at that time itself, however, the same were not mentioned in the FIR lodged subsequently on behest of the complaint given by her mother.

17. The rule regarding grant of bail to an accused charged under the POCSO has been reiterated by the Courts of this Country time and again and the factors such as nature of accusations, material to supplement the accusations, age of the victim, reasonable apprehensions of witnesses being tempered with, larger interest of the public etc. are of paramount consideration for grant of the bail.

18. Considering the totality of the facts and relying upon the material placed on record, and taking into consideration that the accused is of 18 years old without any criminal antecedents, the fact that the statement of the

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prosecutrix and her mother has been already recorded under Section 164 CrPC, and the accused is in jail for past 4 months, this Court is of the view that he may be released on bail.

19. In view thereof, subject to furnishing a bail bond of Rs. 50,000/- with two sureties of the like amount to the satisfaction of the concerned Jail Superintendent/learned Trial Court, it is directed that the applicant/accused be released on regular bail subject to the following conditions:

- a) he shall, in no circumstance, leave India without prior permission of the learned Trial Court;
- b) he shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case;
- c) he shall appear before the learned Trial Court as and when required;
- d) he shall provide his mobile number(s) to the Investigating Officer and keep it operational at all times;
- e) he shall commit no offense whatsoever during the period he is on bail;
- f) he shall not stay within the 2 kilometers proximity of the residence of the prosecutrix;
- g) in case of change of residential address and/or mobile number, the same shall be intimated to the learned Trial Court and the Investigating Officer by way of an affidavit; and
- h) he shall report to the Police Station - Okhla Industrial Area, Delhi on 15th day of every calendar month.



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20. Accordingly, the application stands disposed of. Pending applications, if any, stands dismissed.
21. Copy of this order be sent to the Jail Superintendent for compliance.
22. It is made clear that any observations touching upon merits of the case are purely for the purpose of deciding the question of grant of regular bail by this Court and shall not be construed as an expression of final observations in the proceedings pending before the learned Trial Court.
23. The Order be uploaded on the website forthwith.

CHANDRA DHARI SINGH, J

OCTOBER 15, 2024
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Click here to check corrigendum, if any

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