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

+ **BAIL APPLN. 3168/2024**

ABHISHEK

.....Petitioner

Through: Ms. Tanya Agarwal and Mr. Akil
Rexiwal, Advs.

versus

STATE OF NCT OF DELHI & ANR.

.....Respondents

Through: Mr. Hemant Mehla, APP for the State
with SI Surabhi Upadhyay, PS Sarita
Vihar.

CORAM:

HON'BLE MR. JUSTICE ANISH DAYAL

ORDER

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01.10.2024

1. This petition has been filed seeking regular bail in FIR No.260/2024 PS Sarita Vihar under Section 354 IPC and Section 8 POCSO. As per the case of the prosecution, the FIR was registered on a complaint of the prosecutrix who stated that on 22nd June, 2024 when she was going along with her cousin Sameer to Ali Village on a motorcycle to purchase some items, at around 12:30 P.M. a boy approached her and started misbehaving and touching her inappropriately. As per her, she raised an alarm, her cousin Sameer intervened, leading to a scuffle and during the altercation Abhishek, the petitioner sustained injuries.

2. The FIR was registered on 20th July, 2024, a month later and despite best efforts to record statements of witnesses, no public witness was identified. An inquiry was also made among the locals but all efforts were



in vain. No CCTV footage was also found.

3. The victim gave a supplementary statement stating that there were other boys as well along with Abhishek who inappropriately touched her and also her brother was assaulted by a knife.

4. On 24th July, 2024, victim's statement under Section 183 BNSS was recorded in which she corroborated her previous statement. However, she further stated that she did not know the name of the person who tried to touch her but said that the name of the accused sister is Kirti whose name is also mentioned in FIR No.239/2024 under Section 307 IPC PS Sarita Vihar which is lodged against her cousin Sameer.

5. Considering the injuries on the petitioner, this Court had granted interim bail on 03rd September, 2024 which exhausts today.

6. Counsel for the petitioner submits that the said FIR has been lodged one month after FIR No.239/2024 which had been registered in context of background of the following facts.

7. On 21st June, 2024, Sameer along with the complainant was performing bike stunts in front of the accused house where the accused children were present. When the accused objected to the stunts Sameer retaliated by attacking the accused with a knife. Petitioner collapsed on the road and the family members promptly filed an FIR which was registered under Section 307 IPC. The photographs of the injured petitioner are appended to the petition. Petitioner's counsel, therefore, states that this is a counterblast to falsely implicate the accused and create pressure on the family members.

8. Moreover, there are no previous involvements of the petitioner whereas there are four cases against Sameer, the details of which are appended with the status report.



9. As per the counsel for the petitioner, the allegations itself seem to be specious and frivolous and that there is no specificity, no witnesses were found, no corroboration has been made by any other evidence or circumstantial evidence so far. Moreover, the charge-sheet has already been filed in the matter.

10. In view of the above circumstances and the contentions of the counsel for the petitioner and that the charge-sheet has been filed and that the condition of the petitioner is itself unstable considering the injuries on the neck, the petitioner is granted bail on the following conditions.

11. In light of the above, and that the trial in the matter is likely to take some time, and it would not be prudent to keep the petitioner behind bars for an indefinite period, this Court finds it to be a fit case for grant of bail to the petitioner. Consequently, the petitioner is directed to be released on bail on furnishing a personal bond in the sum of Rs. 25,000/- with one surety of the like amount subject to the satisfaction of the Trial Court, further subject to the following conditions:

- i. Petitioner will not leave the country without prior permission of the Court.
- ii. Petitioner shall provide permanent address to the Trial Court. The petitioner shall intimate the Court by way of an affidavit and to the IO regarding any change in residential address.
- iii. Petitioner shall appear before the Court as and when the matter is taken up for hearing.
- iv. Petitioner shall join investigation as and when called by the IO concerned.



- v. Petitioner shall provide all mobile numbers to the IO concerned which shall be kept in working condition at all times and shall not switch off or change the mobile number without prior intimation to the IO concerned.
 - vi. Petitioner shall not indulge in any criminal activity and shall not communicate with or come in contact with any of the prosecution witnesses, the complainant/victim or any member of the complainant/victim's family or tamper with the evidence of the case.
12. Needless to state, but any observation touching the merits of the case is purely for the purposes of deciding the question of grant of bail and shall not be construed as an expression on merits of the matter.
13. Copy of the order be sent to the Jail Superintendent for information and necessary compliance.
14. Accordingly, the petition is disposed of. Pending applications (if any) are disposed of as infructuous.
15. Order be uploaded on the website of this Court.

ANISH DAYAL, J

OCTOBER 1, 2024/MK