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IN THE HIGH COURT OF DELHI AT NEW DELHI

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BAIL APPLN. 3179/2024

SAHIL (IN JC)

.....Petitioner

Through: Mr. Vishal Raj Sehajpal, Mr.
Pushpendra Bhardwaj & Mr. Jitender
Singh, Advocates.

versus

STATE OF NCT OF DELHI & ANR.

.....Respondents

Through: Mr. Tarang Srivastava, APP for the
State.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

06.12.2024

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By way of the present petition filed under section 439 of the Code of Criminal Procedure 1973 ('Cr.P.C.'), the petitioner seeks regular bail in case FIR No. 300/2024 dated 04.05.2024 registered under sections 363/366/323/376 of the Indian Penal Code, 1860 and section 6 of the Protection of Children from Sexual Offences Act, 2012 at P.S.: Aman Vihar, Delhi.

2. Notice on this petition was issued on 04.09.2024; and since the petition was *filed after 01.07.2024*, it was treated as one under section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023.
3. Status report dated 09.10.2024 has been filed. Nominal roll dated 09.10.2024 has also been received from the jail.
4. Pursuant to intimation sent *vide* order dated 04.09.2024, the prosecutrix is also present in court today.



5. Mr. Vishal Raj Sehajpal, learned counsel for the petitioner draws attention to the statement dated 06.05.2024 of the prosecutrix recorded under section 164 Cr.P.C., to point-out that the prosecutrix has, in very clear terms, explained the genesis of the relationship between the parties, where she *inter-alia* admits that she had disclosed her age to the petitioner as being above 18 years and that she has lived with the petitioner at his house in Haryana for about a year.
6. Mr. Sehajpal further submits, that the prosecutrix has categorically said that she was pregnant with the petitioner's child and has since delivered a baby boy, who is now about 02 months of age. It is further pointed-out that in that statement, the prosecutrix has also admitted that she filed the subject FIR only because she had had a fight with the petitioner.
7. Mr. Sehijpal accordingly prays that the petitioner deserves to be granted regular bail.
8. On the other hand, Mr. Tarang Srivastava, learned APP appearing for the State submits, that the prosecutrix has in a sense supported the prosecution's case since she admits that she was pregnant with the petitioner's child; and whether or not she was 'major' at the relevant time is an issue to be considered in the course of trial.
9. Mr. Srivastava further argues, that merely because an FIR has come to be registered when the prosecutrix was angry or upset with the petitioner does not mean that the offence was not committed.
10. In the peculiar circumstances obtaining in the matter, the court has very closely queried the prosecutrix to elicit her stand in relation to the bail petition under consideration.



11. The prosecutrix has in very clear and categorical terms said that her relationship with the petitioner was consensual; that she had represented to the petitioner that she was above 18 years of age at the relevant time; that she has had a child with the petitioner; and that she registered the subject FIR only out of anger. In fact, the prosecutrix has further said that bail should be granted to the petitioner; that she would be residing with the petitioner; and that she is even willing to stand surety for him.
12. The petitioner's nominal roll shows that he has spent about 07 months in judicial custody as an undertrial; that his jail conduct has been 'satisfactory'; and that he has no other criminal involvements.
13. In the peculiar circumstances obtaining in the matter, and especially in view of what has been categorically stated by the prosecutrix, both in her statement recorded under section 164 Cr.P.C. as well as before this court in the present proceedings, this court is persuaded to grant to the petitioner – **Sahil s/o Gurdev** – regular bail pending trial, subject to the following conditions :
 - 13.1. The petitioner shall furnish a personal bond in the sum of Rs.25,000/- (Rs. Twenty-five Thousand Only) with 01 surety in the like amount from a family member, to the satisfaction of the learned trial court;
 - 13.2. The petitioner shall furnish to the Investigating Officer/S.H.O a cellphone number on which the petitioner may be contacted at any time and shall ensure that the number is kept active and switched-on at all times;



- 13.3. If the petitioner has a passport, he shall surrender the same to the learned trial court and shall not travel out of the country without prior permission of the learned trial court;
- 13.4. The petitioner shall not tamper with evidence nor otherwise indulge in any act or omission that is unlawful or that would prejudice the proceedings in the pending trial. However, since the prosecutrix has said that she would be residing with the petitioner, it goes without saying that such *voluntary cohabitation itself* would not amount to a breach of this condition; and
- 13.5. In case of any change in his residential address/contact details, the petitioner shall promptly inform the I.O. in writing.
14. Since the petitioner is facing trial and is therefore appearing before the learned trial court from time-to-time, it is not considered necessary to impose a reporting requirement as a condition of regular bail.
15. A copy of this order be sent to the concerned Jail Superintendent *forthwith*.
16. The petition stands disposed-of in the above terms.
17. Pending applications, if any, are also disposed-of.

ANUP JAIRAM BHAMBHANI, J

DECEMBER 6, 2024

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