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

+ **BAIL APPLN. 3362/2024**

RISHABH JAIN

.....Petitioner

Through: Ms. Kannupriya Paliwal, Mr. Karan Kaushik and Mr. Nitin Pandey, Advocates.

versus

STATE, NCT OF DELHI

.....Respondent

Through: Mr. Hemant Mehla, APP for the State with SI Sneh Singh, PS Gokal Puri. Mr. Amit Jain, Advocate for victim with victim.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

% **18.09.2024**

CRL.M.A. 28143/2024 (Exemption)

1. Exemption allowed, subject to all just exceptions.
2. The application stands disposed of.

BAIL APPLN. 3362/2024 (for Regular Bail)

3. The Bail Application under Section 439 of CrPC has been filed on behalf of the petitioner for grant of Regular Bail in the FIR No. 0182/2024 for the offence under Section 376 of the IPC, registered at Police Station Gokul Puri, to which Section 6 of POCSO Act has been subsequently added.
4. It is submitted in the Bail Application that the complainant, Ms. 'X' made a complaint in the Police Station Gokul Puri on 21.03.2024, on which the FIR was registered and the petitioner was arrested on the same day. The



Charge Sheet has already been filed in the Court and the case has been committed to the learned Sessions Court.

5. It is submitted that the petitioner had been in relationship with the complainant and they always have consensual sexual relationship, which is being continuing. The complainant had borrowed some money and assured the petitioner that she would return the same in due course of time. When she could not return the money and persisting demands were made by the petitioner, she blackmailed him that she would implicate him in a false rape case. Consequently, she made a Complaint in August, 2023 but a Settlement was arrived at when the complainant agreed and accepted that to avoid return of money to the petitioner, she had filed the Complaint.

6. After arriving at the Settlement dated 23.08.2023, the petitioner again requested the Complainant to return the money so borrowed, which she again denied and warned him against daring to ask for the money. In order to settle her personal vendetta, she filed the present Complaint resulting in registration of FIR.

7. The Bail is sought on the ground that he has been implicated falsely in the present case. He is languishing in jail since 21.03.2024 and the investigation has already been conducted and the Charge Sheet has been filed under Section 173 CrPC before the Court on 17.05.2024.

8. It is further asserted that the complainant was known to the accused since 2015 and their friendship eventually matured into a consensual relationship since 2017. The complainant in her complaint had only stated the date of first incident but when she came to know that the POCSO can be invoked, she concocted a false date and time of the incident after the filing of the Bail Application on 08.08.2024, though she was not able to give the



date despite ample opportunities in the past. Even though the complainant may presumably being a minor on the first date of incident, i.e. February 2017, but she has now come of age. The provisions of POCSO had been enacted to prevent the exploitation of children below 18 years of age and was never intended to criminalise consensual romantic relationships between young adults.

9. It is claimed that the petitioner has been falsely and maliciously implicated in this Case. No fruitful purpose would be served by keeping him in jail. He belongs to a good family and has no criminal antecedents. He is a permanent resident of Delhi and there is no likelihood of his absconding from the justice. He undertakes not to induce, threat or promise to any of the witness acquainted with the facts of this case and that he shall join the trial on every date. The Bail is thus, sought on behalf of the petitioner.

10. **Status Report** has been filed on behalf of the State wherein it was submitted that as per the complainant, she had been sexually assaulted on the false pretext of marriage. She in her statement given to the Court, has corroborated her version of sexual assault. Her medical examination has been conducted in GTB Hospital. The accused is in custody since 21.03.2024.

11. The Bail is opposed on the ground of the crime being heinous, all witnesses are yet to be examined. There is possibility that the petitioner may indulge in similar activities if released on bail and may threaten/intimidate the victim or her family members.

12. The complainant is present with her counsel. Learned counsel for the complainant has addressed the arguments and has submitted that the parties have been in relationship since 2017 and the complainant was lured in



continuing with the relationship on the false promise of marriage.

13. Submissions heard.

14. It is an admitted case that the petitioner and the complainant had known each other since 2015 and had been in relationship since 2017, in which year she attained majority. Subsequently, she has given a supplementary statement stating that first incident happened in February, 2017 when she was on the verge of attaining majority. There has been repeated conduct of the petitioner; in fact, she had even made a Complaint to the Police in the year 2023 but did not pursue the same as there was a compromise with the petitioner.

15. She thereafter, has now filed a Complaint against him in March, 2024, which has resulted in the registration of FIR. There are clear averments in the FIR that she has now got the FIR registered even though they were in relationship since 2017 because of the false promise of the petitioner to marry her. Because the petitioner has not agreed to marry her, she has now got the FIR registered.

16. Considering the nature of allegations and the submissions made and also that the accused is in custody since 21.03.2024 and the Charge Sheet has already been filed, the Supplementary Charge Sheet under Section 6 of POCSO Act is also ready and shall be filed in the Court on 19.09.2024 the petitioner is admitted to bail on the following conditions:

- a) The petitioner/accused shall furnish a personal bond of Rs.25,000/- and one surety of the like amount, subject to the satisfaction of the learned Trial Court.
- b) The petitioner/accused shall appear before the Court as and when the matter is taken up for hearing.



- c) The petitioner/accused shall provide mobile number to the IO concerned which shall be kept in working condition at all times and he shall not change the mobile number, without prior intimate to the Investigating Officer concerned.
- d) The petitioner/accused shall not indulge in any criminal activity and shall not communicate with or come in contact with the witnesses.
- e) The petitioner/accused shall not leave the country, without permission of this Court.
- f) The petitioner/accused shall not change his residential address and in case of change of the residential address, the same shall be intimated to this Court, by way of affidavit.
- g) The petitioner/accused shall not contact the prosecutrix or live in the vicinity of her house; he shall not threaten the witnesses and shall not tamper with the evidence.

17. The copy of this Order be communicated to the concerned Jail Superintendent as well as to the learned Trial Court.

18. The Petition is disposed of accordingly.

NEENA BANSAL KRISHNA, J

SEPTEMBER 18, 2024/RS