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

+ **BAIL APPLN. 3372/2024**

DIPANSHU

.....Petitioner

Through: Mr. Balram and Mr. Saurabh Mathur,
Advocates.

versus

STATE (NCT OF DELHI)

.....Respondent

Through: Mr. Yudhvir Singh Chauhan, APP for
the State along with prosecutrix and
her mother, and SI Sapna Yadav.

CORAM:

HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

ORDER

21.10.2024

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1. The instant bail application under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter "BNSS") has been filed on behalf of the petitioner seeking regular bail in FIR No. 503/2024 dated 12th August, 2024 registered at Police Station - Aman Vihar for offences punishable under Sections 115(2)/74/76/3(5) of Bharatiya Nyaya Sanhita, 2023 ("BNS" hereinafter) and Section 12 of the Protection of Children from Sexual Offence Act, 2012 ("POCSO" hereinafter).

2. Learned counsel appearing on behalf of the petitioner/applicant submitted that the applicant has been falsely implicated in the instant case as he has not committed the alleged offence under Section 12 of the POCSO Act.

3. It is also submitted that the role assigned to the present applicant constitutes merely throwing of bricks at the house of the complainant and as



per the allegation made in the present FIR, all the allegations levelled against the applicant are for offences punishable under Sections 115(2)/74/76/3(5) of Bharatiya Nyaya Sanhita, 2023 (“BNS” hereinafter), and therefore, no offence under Section 12 of the POCSO Act is made out, and the essential ingredients required for constitution of offences under the provisions of POCSO Act are missing therein.

4. Learned counsel appearing on behalf of the applicant referred to the statement of the prosecutrix made under Section 164 of the Code of Criminal Procedure, 1973 (now Section 183 of the BNSS) and submitted that no allegations under the POCSO Act are made out against the applicant in view of the fact that the prosecutrix has failed to assign any role to the petitioner under the provisions of the POCSO Act in her statement.

5. It is submitted that the petitioner has been languishing in judicial custody since 12th August, 2024 and as per the nominal roll which is on record, his conduct in the jail has been satisfactory. It is further submitted that the petitioner is an innocent person and a law abiding citizen.

6. On instructions, learned counsel undertakes that the petitioner shall abide by all the conditions imposed by this Court while granting bail. The address of the petitioner has already been verified by the State and is found to be true and correct.

7. It is also submitted that there are no criminal antecedents of the petitioner, who is languishing in judicial custody since 12th August, 2024. Furthermore, the investigation of the case stands complete and accordingly, the chargesheet is filed, therefore, the petitioner is not required for custodial interrogation. Hence, in view of the foregoing submissions, it is prayed that the petitioner may be released on bail.



8. On a query made by this Court, the prosecutrix and her mother categorically stated that there is no objection against the grant of bail to the petitioner.

9. *Per Contra*, Mr. Yudhvir Singh Chauhan, APP for the State vehemently opposed the bail application and submitted that the petitioner is involved in heinous crimes punishable under Sections 115(2)/74/76/3(5) of the BNS, therefore, he is not entitled to be released on bail as he may influence the trial and may tamper with the material evidence. However, it is fairly conceded on behalf of the State that there are no criminal antecedents of the petitioner. It is further submitted that the investigation has been completed and the chargesheet has been filed.

10. Heard learned counsel for the parties and perused the contentions made in the application, the material available on record including the status report, nominal roll as well as the FIR.

11. Upon perusal of the aforesaid content, it is observed that there are no criminal antecedents of the petitioner. The address given by the petitioner has been duly verified by the State and is found to be correct. It is also noted that pursuant to the completion of investigation, the chargesheet has been filed before the Court concerned.

12. Keeping in view the clean antecedents of the petitioner, his conduct in jail as well as the contentions made on behalf of the learned counsel for the parties, this Court is inclined to allow the instant petition in favour of the petitioner by granting regular bail.

13. Accordingly, it is directed that the petitioner be released on bail subject to furnishing of personal bond in the sum of Rs. 20,000/- (Rupees Twenty Thousand only) alongwith two solvent sureties of like amount to the



satisfaction of the Jail Superintendent/ Trial Court subject to the conditions as follows:-

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

14. Accordingly, the instant petition along with pending applications, if any, stands disposed of.

15. Copy of this order be sent to Jail Superintendent for compliance.

16. It is made clear that any observations touching merits of the case are purely for the purpose of deciding the question of grant of bail by this Court and shall not be construed as an expression of final observation in the



proceedings pending before Trial Court.

CHANDRA DHARI SINGH, J

OCTOBER 21, 2024

Rk/sm

Click here to check corrigendum, if any