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

+ **BAIL APPLN. 3414/2024**

SHAMIM JAVED @ NANHE

.....Petitioner

Through: Mr.Mihilal Chaudhary, Mr.Ayub Khan, Ms.Shailja and Mr.Kartika, Advocates

versus

STATE (NCT) OF DELHI

.....Respondent

Through: Ms.Manjeet Arya, APP for State with SI Sohan Lal, P.S. Tigri. Mr.Yusuf, Mr.Amit Sharma, Mr.Khursheed Anwar and Mr.Jatin Sharma, Advocates with victim in person.

CORAM:

HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA

ORDER

23.09.2024

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CRL.M.A. 28583/2024

Exemption allowed, subject to just exceptions.

Application stands disposed of.

BAIL APPLN. 3414/2024

1. An application under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 ('BNSS') has been preferred on behalf of petitioner for grant of regular bail in FIR No. 147/2024 under Sections 307/342/346/498A/34 IPC registered at PS: Tigri. Chargesheet has been filed under Sections 307/342/346/498A/506/376/34 IPC, Section 6 of POCSO Act & Sections 9/10/11 of Prohibition of Child Marriage Act, 2006.
2. Issue notice. Learned APP for the State and learned counsel for complainant/prosecutrix alongwith prosecutrix in person appear on advance notice and accept notice.
3. In brief, as per the case of prosecution, present FIR was registered on



complaint of wife of petitioner who alleged that her husband, father-in-law, mother-in-law and sister-in-law used to demand dowry and she was harassed and mentally tortured in this regard. Further, on 16.03.2024, her husband and in-laws confined complainant alongwith her mother 'B' and inflicted injuries on complainant's face with a surgical blade.

4. Learned counsel for the petitioner submits that petitioner who is husband of complainant, is in custody since 18.03.2024, while co-accused have already been released on anticipatory bail. He further submits that injuries sustained by complainant were simple in nature and complainant was discharged from the hospital on the same day. He contends that Section 376 IPC and Section 6 of POCSO Act have been invoked only because complainant is alleged to be less than 15 years despite the fact that *nikah* between petitioner and complainant was performed on free will of the parties, in accordance with personal law applicable to them. He further contends that chargesheet has also been filed before the learned trial court.

5. On the other hand, application is vehemently opposed by learned APP for the State alongwith learned counsel for complainant/prosecutrix. Learned APP for State fairly submits that though complainant alleged that she was a minor on the date of marriage, but there is nothing on record to conclude that the said marriage was against the consent of parties and *nikah* was performed, at the house of mother of complainant/prosecutrix.

Learned counsel for complainant/prosecutrix also submits that injuries were inflicted on the face of complainant and the possibility of influencing the witnesses cannot be ruled out, since charge is yet to be framed.

6. Admittedly, petitioner is in custody since 18.03.2024 and is no more required for purpose of investigation. The nature of injury sustained by



complainant was opined to be simple in nature and complainant was discharged from the hospital on the same day. Considering the facts and circumstances, petitioner is admitted to bail on furnishing personal bond in the sum of Rs. 25,000/- (Rupees Twenty Five Thousand only) with one surety in the like amount to the satisfaction of the learned trial court and subject to the following conditions:

- (i) Petitioner shall provide his mobile number to the Investigating Officer (IO) / SHO concerned at the time of release;
- (ii) In case of change of address, petitioner shall intimate / communicate his fresh address to the IO / SHO concerned as well as learned Trial Court;
- (iii) Petitioner shall not influence the witnesses in any manner.

Application is accordingly disposed of. Pending applications, if any, also stand disposed of.

A copy of this order be sent to the learned Trial Court and Superintendent Jail for information.

ANOOP KUMAR MENDIRATTA, J

SEPTEMBER 23, 2024/v