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

+ **BAIL APPLN. 3435/2024**

SANJAY JHA

.....Petitioner

Through: **Mr Aranyak Pathak, Adv.**

versus

STATE (GOVT. OF NCT DELHI) & ANR.Respondents

Through: **Mr Aashneet Singh, APP for State**
SI Pooja Saraswat, PS-Tigri
Mr Chandan Kumar and Ms Nimisha
Menon, Advs. for R-2.

CORAM:

HON'BLE MR. JUSTICE JASMEET SINGH

ORDER

% **27.11.2024**

1. This is an application filed under section 439 Code of Criminal Procedure, 1973 seeking regular bail to the petitioner in FIR No. 272/2022, dated 07.07.2022 registered at P.S. Tigri, South, Delhi under Sections 323/328/354/376/506/509 IPC, Sections 6/8/12/21 of POCSO Act and Section 75 of Juvenile Justice (Care and Protection of Children) Act 2015.
2. The chargesheet has been filed under Sections 323/328/342/354/376/506/509, Sections 6/10/12/21 of POCSO Act and Section 75 of Juvenile Justice (Care and Protection of Children) Act 2015 Act.
3. Mr Pathak, learned counsel for the petitioner states that no valid certificate of Date of Birth was filed by the prosecution to show that on the date of incident, the prosecutrix was a minor.



4. He further states that during the trial on 04.07.2024, the chief and cross examination of the Vice principal of the school of the prosecutrix was completed. During the chief it was found that the summoned record that he brought also contained prosecutrix's age affidavit given by the mother of the prosecutrix, however the same does not bear her signature. Therefore, it is not a valid affidavit.

5. In the present case, the petitioner is the owner of Rising Hope (de-addiction centre) where the prosecutrix was admitted for rehabilitation. In addition, the evidence of the prosecutrix has been duly recorded and she has fully corroborated the allegations made in the FIR and in the charge-sheet.

6. The prosecution has also relied upon the School Admission Form and the School Admission Register which shows that the Date of Birth of the prosecutrix is 11.10.2006 which indicates that at the time of the incident, the prosecutrix was a minor.

7. The Hon'ble Courts time and again have held that in the absence of the Date of Birth Certificate, the records maintained by the school including the Admission Register is a reliable piece of evidence to determine the age of the prosecutrix. The question whether the affidavit is signed or not signed is not relevant at this stage and the same will be seen and adjudicated at the stage of final arguments.

8. As of today, what weighs with the Court today is that the allegations against the petitioner are serious and the same have been corroborated by the prosecutrix in her statements given under Sections 161 Cr.P.C and section 164 Cr.P.C.

9. For the said reasons, the petition is dismissed.

10. Nothing stated hereinabove shall tantamount to an expression of



opinion on the merits of the case.

JASMEET SINGH, J

NOVEMBER 27, 2024

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[Click here to check corrigendum, if any](#)