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IN THE HIGH COURT OF DELHI AT NEW DELHI

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BAIL APPLN. 3580/2024

AKASH RAM

.....Petitioner

Through: Mr.Hemant Kumar and Mr.Shivam
Jangra, Advocates

versus

STATE GOVT. OF NCT OF DELHI

.....Respondent

Through: Mr.Mukesh Kumar, APP for the State
alongwith Insp. Josepha Kujur, CAW
Cell/SWD and Insp. Harpal Singh,
P.S.Defence Colony
Mr.Sheezan Hashmi and Mr.Aakash
Dubey, Advocates for complainant

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

ORDER

11.11.2024

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1. The present application has been filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 on behalf of the applicant seeking regular bail in FIR No.162/2021, registered at Police Station Defence Colony, New Delhi, for the offences punishable under Section 302/376 of the Indian Penal Code, 1860 (hereinafter "IPC") & for offences under Section 6 of Protection of Children from Sexual Offences Act, 2012 (hereinafter "POCSO Act").
2. The brief facts of the case are that on 18.08.2021, information vide GD No. 48A was received from Lok Nayak Hospital at Police Station Defence Colony regarding the admission of a girl aged about 16 years vide MLC No. 114071165. She gave birth to a female child. The said



information was marked to Inspector Josepha Kujur for further necessary action. On receipt of this information, Inspector Josepha Kujur and Head Constable Jitender No. 176/SD reached Lok Nayak Hospital, New Delhi and received MLC No. 114071 165. The victim was in OT and under treatment. The newborn baby was declared dead by the paediatrician. It is stated that the blood sample of the victim and the cord of the baby of the victim were preserved by the doctors. The same has been taken into police possession through a seizure memo. The dead body of the baby of the victim was preserved at the mortuary, Maulana Azad Medical College for Post Mortem. Information was given to DCW, and the counselling of the victim was done by CIC. On 19.08.2021, the postmortem of the dead body of the baby was conducted at Maulana Azad Medical College vide PM No 195/21, and the exhibits preserved by the doctor during the postmortem were duly collected through seizure memo and the dead body of the baby was handed over to the father of victim for the funeral.

3. It is pertinent to mention here that the victim in her statement before the Police stated that she was known to the accused and in July 2020, the applicant came to her home when she was alone and he put vermilion and said that we are now Husband and Wife. The victim stated that, thereafter, they had sex with her consent. In her statement, she stated that she could not know when she got pregnant. In her statement under Section 164 of Cr.P.C., the victim stated that she was in a relationship with the applicant since 2020. In her statement, she stated that though they had sex at her house, but the applicant did not



force her. It is stated that they had sex multiple times thereafter. During the investigation, it was found that the victim was a minor. The DNA profile also indicated that the applicant is the biological father of the deceased child.

4. Learned APP for the State submitted that as per the post-mortem, the death of the baby has occurred due to asphyxia due to compression of neck structures as a result of manual strangulation. All the injuries are anti-mortem in nature, caused by blunt force on the neck and the possibility of homicide cannot be ruled out in this case. The age of the baby is between 7-8 months and was born alive. The status report also states that as per the investigation conducted, the baby of the victim had already been born before she was admitted to the hospital. The baby was not alive and the Paediatrician tried resuscitation but the baby could not be saved.
5. It is also essential to note that the MLC filed with the petition indicates that the baby was delivered in an auto-rickshaw 15 minutes prior and was found inside a *salwar*. Upon examination, it was observed that there were no cord pulsations, and the umbilical cord was damaged and cut.
6. At this stage, learned counsel for the applicant submitted that, in her testimony before the Court, the victim stated that the applicant had sexual relations with her, and it was not against her will.
7. I have considered the submissions made by learned counsel for the parties. The applicant is in judicial custody since 19.08.2021. The applicant, victim and her parents have already been examined. In the considered view of this Court, once the investigation is complete, the



charge sheet is filed, and examination of witnesses is complete. Given the likelihood of protracted trial proceedings, no purpose would be served by keeping the petitioner in custody till the pendency of the proceedings before the trial court. Reliance is placed upon **Praveen Rathore v. State of Rajasthan**, 2023 SCC OnLine SC 1268.

8. Further, the learned counsel appearing on behalf of the complainant has not opposed the instant bail application.
9. In view of the facts and circumstances, without making any remarks on the merits of the case, the applicant is granted bail on the applicant furnishing a personal bond in the sum of Rs.10,000/- with one surety of the like amount to the satisfaction of the concerned learned Trial Court and subject to the verification of his address and also subject to the following further conditions:
 - a) the Petitioner shall appear before the Investigating Officer/trial court as and when required;
 - b) the Petitioner shall under no circumstances leave the country without prior permission of the Court concerned;
 - 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) to the Investigating Officer and keep it operational at all times;
 - e) In case of a change of residential address and/or mobile number, the Petitioner shall intimate the same to the Investigating Officer/ Court concerned by way of an affidavit.



10. With the above directions, the application is disposed of.

11. A copy of this order be sent to concerned Jail Superintendent for compliance.

DINESH KUMAR SHARMA, J

NOVEMBER 11, 2024
dy/ht..