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

+ **BAIL APPLN. 3701/2024**

MANISH

.....Petitioner

Through: Advs Kunal Madan, Shyam Babu,
Mohit Gulati, Ishan Ahuja, Rahul
Matharu, Astha Singh, Piyus Jain and
Tanvi Wasson.

versus

STATE OF NCT OF DELHI

.....Respondent

Through: Mr. Hitesh Vali, APP for the State
with SI Sangeeta, PS S.B. Dairy.

CORAM:

HON'BLE MR. JUSTICE ANISH DAYAL

ORDER

09.10.2024

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1. This petition has been filed seeking regular bail in FIR No. 657/2024 PS Shahbad Dairy under Sections 137(2)/64/87 of BNS & Section 6 of POCSO Act. Petitioner was arrested on 22nd September, 2024.
2. Counsel for the petitioner states that the petitioner and the prosecutrix had already got married on 17th September, 2024; both are major in age. As per the Aadhar Card of the prosecutrix, the date of birth is 27th May, 2005 and, therefore, she would be major in age, as per the Aadhar Card. However, it was noted in the ASJ's order dismissing the bail that in her school records, the date of birth has been recorded as 27th May, 2007.
3. The FIR had been registered on the complaint of the father who stated that his daughter was missing and was suspecting that somebody has whisked her away.



4. However, it is noted that before the ASJ it was noted that not only the accused, but also the prosecutrix had submitted that they were in a relationship with each other and had in fact got married and were both major in age.

5. The prosecutrix was present before the ASJ's Court and stated that she wanted bail to the accused, as she had eloped with the accused on her own wish and wants to live with the accused and does not want to live with her parents as her parents tortured her. It is also noted that the prosecutrix was recovered along with the accused.

6. The APP for the State submits that subsequently on 03rd October, 2024 statement of the prosecutrix under Section 164 Cr.P.C. has been recorded where she stated that she had eloped with the accused and she has been in a relationship with him since the last five years; however, her family came to know about it. Manish's family came to meet her family with a marriage proposal but her parents refused the same and, therefore, she decided to elope. They got married in Arya Samaj Mandir on 17th September, 2024. She stated that she established physical relationship only post her marriage. They were staying in Delhi itself after taking a place on rent. She stated categorically that she is 19 years of age and whatever physical relationship she had with him was by her consent. She stated that she wants to stay with Manish, the accused, in a happy and peaceful union.

7. To reaffirm what the prosecutrix stated, the Court through the facilitation of the IO ensured that she was available, through VC, from CWC where she is currently being taken care of. She categorically reiterated what she had stated before the Magistrate, in that she was in a relationship with the accused, had eloped with him and had thereafter married him and all



which had happened was with her consent and that she had no objection to bail being granted, in fact she wants to stay happily with the accused.

8. Considering these circumstances, the petitioner ought not to continue to be in custody and, therefore, based on categorical statement of the prosecutrix and the attendant circumstances. Even though the investigation will continue go on, the accused has already stated before the Trial Court that he will fully cooperate in the investigation.

9. Various Coordinate Benches of this Court and other Courts have taken into account such peculiar facts and circumstances in order to grant liberty to the accused who have been incarcerated on this account, where there is a categorical assertion of a relationship between the prosecutrix and the accused, and there is no objection for bail being granted to the accused by the prosecutrix.

10. In these circumstances, it would not be prudent to keep the petitioner behind bars for an indefinite period, this Court finds it to be a fit case for grant of bail to the petitioner.

11. Consequently, the petitioner is directed to be released on bail on furnishing a personal bond in the sum of Rs. 25,000/- with one surety of the like amount subject to the satisfaction of the Trial Court, further subject to the following conditions:

- i. Petitioner will not leave the country without prior permission of the Court.
- ii. Petitioner shall provide permanent address to the Trial Court. The petitioner shall intimate the Court by way of an affidavit and to the IO regarding any change in residential address.



- iii. Petitioner shall appear before the Court as and when the matter is taken up for hearing.
 - iv. Petitioner shall join investigation as and when called by the IO concerned.
 - v. Petitioner shall provide all mobile numbers to the IO concerned which shall be kept in working condition at all times and shall not switch off or change the mobile number without prior intimation to the IO concerned.
 - vi. Petitioner shall not indulge in any criminal activity and shall not communicate with or come in contact with any of the prosecution witnesses, the complainant/victim or any member of the complainant/victim's family or tamper with the evidence of the case.
12. Needless to state, but any observation touching the merits of the case is purely for the purposes of deciding the question of grant of bail and shall not be construed as an expression on merits of the matter.
13. Copy of the order be sent to the Jail Superintendent for information and necessary compliance.
14. Accordingly, the petition is disposed of. Pending applications (if any) are disposed of as infructuous.
15. Copy of the order be given *dasti* under the signature of the Court Master.
16. Order be uploaded on the website of this Court.

ANISH DAYAL, J

OCTOBER 9, 2024/MK