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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 3711/2024**
LAL BIHARI@ LAL BAHADURPetitioner
Through: Mr. Tajinder Singh, Mr.Anurag,
Mr.Sunil and Mr.BP Singh, Advocates

versus

THE STATE NCT OF DELHIRespondent
Through: Ms. Manjeet Arya, APP for State with
SI Dinesh Kumari
Ms. Malvika Kulkarni, Amicus Curiae with
brother of the complainant in person

CORAM:
HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

% **06.12.2024**

1. By way of the present application, the petitioner/applicant seeks regular bail in FIR No.54/2018 registered under Sections 376/506/354 IPC & Sections 6/10 POCSO Act at P.S. Mehrauli, Delhi.

2. Learned counsel for the applicant submits that the applicant is in custody since 17.01.2018 and all the material witnesses having been examined, the applicant is no longer required to be kept in custody.

On merits, it is contended that though the prosecution has claimed the child victim to be a minor, however, a reading of the testimonies of the principal and the child victim would show that there is a doubt about her exact date of birth. In this regard, while referring to the testimony of the child victim, it is stated that though the school records reflect her date of birth is 12.02.2003, however, she has claimed her real date of birth to be 10.03.2003. Even the Principal during his examination has stated that there



is no verification with respect to the date of birth. It is next contended that there is a delay in registration of the FIR as the incident is stated to be of 5-6 October, 2017, and the FIR came to be registered on 17.01.2018. It is next contended that though the child victim has claimed that the applicant had made videos, however, no such video could be retrieved in the forensic examination. Lastly, it is contended that the DNA analysis report also does not favour the prosecution case.

3. Learned APP for the State, duly assisted by the learned Amicus Curiae, has opposed the bail application. It is contended that the child victim has duly supported the prosecution case. It is further stated that at the time of registration of the FIR, the child victim was found to be 3 weeks pregnant and later, the fetus was aborted. It is further submitted that the trial is at the fag end and that only two formal witnesses are remaining to be examined.

4. I have heard learned counsel for the applicant, learned Amicus Curiae as well as learned APP for the State and have also gone through the material placed on record. Insofar as the date of birth of child victim is concerned, though the school records reflect it to be 12.02.2003, the victim has claimed herself to be born on 10.03.2003. The incident is stated to be of 5-6 October, 2017. Considering whichever date of birth, the child victim remains a minor on the date of the incident. On the aspect of delay, it is noticed that she was only 14 years old as on the date of the incident and as per the medical records from the Safdarjung Hospital at the time of reporting of the incident, she was found to be 3 months pregnant which relates back to the date of the incident as the FIR was registered on 17.01.2018. Coming to the next contention that neither FSL nor DNA report has supported the case of the prosecution, it is noted that the reports in this regard have opined that the



videos could not be retrieved and in the DNA analysis, the samples were degraded.

5. Keeping in mind the testimony of the prosecutrix as well as the other records, I find no ground to entertain the present application. Accordingly, the same is dismissed.

6. At this stage, learned Amicus Curiae submits that the child victim till date has only been released a sum of Rs.50,000/- as interim compensation. The trial court would look into the aforesaid aspect in light of the decision of the Co-ordinate Bench of this Court titled “X v. State” in **CRL.A.63/2022** and take the necessary steps.

7. Let a copy of this order be communicated to the concerned trial court for information.

MANOJ KUMAR OHRI, J

DECEMBER 6, 2024

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