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

+ **BAIL APPLN. 4105/2024**

GAURAV KUMAR

.....Petitioner

Through: Mr. Varun Kumar, Mr. Saurabh
Agarwal, Mr. M. Kumar Guru and
Mr. Hritik Bhardwaj, Advocates.

versus

STATE OF NCT OF DELHI

.....Respondent

Through: Ms. Priyanka Dalal, APP for the State
with SI Neha, PS Mehrauli.
Ms. Bindita Chaturvedi, Ms. Kirti,
Advocate along with victim's mother.
Mr. Alok Vajpayee, Advocate for R-
2.

CORAM:

HON'BLE MR. JUSTICE JASMEET SINGH

ORDER

11.12.2024

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1. This is a petition seeking grant of regular bail in FIR No. 31/2024 dated 09.01.2024, PS Mehrauli, under Section 363 IPC and charge sheet 363/376/465 of IPC and 4 POCSO Act.
2. As per the FIR, the daughter of the complainant was reported missing and she was found thereafter. After investigation, the prosecutrix gave statement u/s 164 Cr.P.C. which revealed that the petitioner, who was the neighbour of the prosecutrix, misguided her to leave the house and then raped her in a hotel room.
3. It is stated by Mr. Kumar, learned counsel for the petitioner that as per the Aadhar Card of the prosecutrix the date of birth was 18.08.2004 and as



per the school admission form it is 18.08.2006. It is stated that the date in the school record is fabricated only to show the child as a minor on the date of the incident, i.e. 09.01.2024.

4. In addition, the learned counsel for the petitioner states that the Petitioner has never committed any act of sexual offence against the Petitioner and the entire case is set up. Hence, the Petitioner is entitled to bail.

5. As per the nominal roll, the Petitioner has already been under incarceration for a period of 10 months 19 days.

6. I have heard Mr. Lal, learned APP as well as Ms. Bindita Chaturvedi and Mr. Alok Vajpayee, counsel for the prosecutrix.

7. Even assuming the best-case scenario for the Petitioner that the date of birth of the prosecutrix is 18.08.2004, the fact remains that as per statement u/s 164 Cr.P.C. the Petitioner has committed penetrated sexual assault upon the prosecutrix without her consent.

8. Ms. Dalal has handed over a status report in court today wherein it is stated that there are documents showing the entry and exit of both the Petitioner and prosecutrix in the concerned hotel.

9. Further, the second MLC *prima-facie* confirms the act of sexual assault.

10. There are serious allegations against the petitioner. Witnesses are yet to be examined and charges are yet to be framed.

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

12. Needless to state that nothing observed hereinabove shall amount to an expression on the merits of the case and shall not have a bearing on the trial of the case as all arguments or the observations made are only for the



purpose of deciding the present bail application and all legal and factual arguments are left open to be addressed at the stage of framing charge.

13. The status report is taken on record.

JASMEET SINGH, J

DECEMBER 11, 2024/ab

Click here to check corrigendum, if any