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

+ **BAIL APPLN. 4107/2024**

SUKHBIR

.....Petitioner

Through: Mr. Vinod Malhotra, Ms. Poorna and
Mr. Gurjeet Sodhi, Advocates.

versus

STATE OF NCT OF DELHI AND ANR

.....Respondents

Through: Mr. Kiran Bairwa, APP for the State
along with SI Sukhchain, Ps Nihal
Vihar and Victim in person

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

ORDER

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18.12.2024

CRL.M.As. 33878-79/2024 (exemption)

Exemption allowed, subject to all just exceptions. Application stands disposed of.

BAIL APPLN. 4107/2024

1. The present bail application has been filed seeking regular bail in case FIR No.1438/2023 registered under Section 376(2)(n) IPC and under Section 6 POCSO Act at PS Nihal Vihar, New Delhi.
2. Learned counsel for the petitioner submits that the victim was more than 17 years of age at the time of incident. It is stated that it was a consensual relationship and the parties have agreed to marry each-other. Learned counsel for the petitioner submits that besides that there is a conflict in the testimony of the prosecutrix.



3. Learned APP has opposed the bail application. Learned APP submits that the victim was 17 years of age and the petitioner committed sexual intercourse upon her. Learned APP submits that the victim being a minor, her consent is immaterial. Learned APP submits that though the status report dated 12.12.2024 has been filed but it is not on record. However, hard copy of the same has been shared. Let it be brought on record.

4. I have considered the submissions. In the statement of the victim as recorded in the MLC, the victim alleged that she was assaulted by her brother Gagan (G). However, subsequently in the statement before the Police on the basis of which the FIR was lodged, the victim stated that she was sexually assaulted by the petitioner. In the statement under section 164 Cr.P.C. also, the victim stated that she was sexually assaulted by the petitioner. The charge-sheet has already been filed. The prosecutrix has also been examined. The petitioner is in custody since 18.11.2023.

5. In these facts and circumstances bail is granted to the petitioner on furnishing of a personal bond in the sum of Rs.20,000/- with one surety of the like amount to the satisfaction of the concerned learned trial court, subject to the verification of address and subject to the following further conditions:

- a) The applicant will report to the SHO of the respective area once a month.
- b) The applicant will not leave the country without prior permission of the Court.
- c) The applicant shall appear before the Court as and when the matter is taken up for hearing.



- d) In case of change of residential address and/or mobile number, the appellant shall intimate the same to the Investigating Officer/ Court concerned by way of an affidavit.
 - e) The applicant shall not indulge in any criminal activity and shall not communicate with or come in contact with any person acquainted with the facts of the case or tamper with the evidence of the case or try to intimidate any witnesses in the case.
6. With the above directions, the application is disposed of.
7. A copy of this order be sent to concerned Jail Superintendent for information and necessary compliance.

DINESH KUMAR SHARMA, J

DECEMBER 18, 2024

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