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

+ **BAIL APPLN. 410/2025**
MD NAZIM

.....Petitioner

Through: Mr. Prem Prakash Upadhyay, Ms.
Sukanya Hazarika, Mr. Krishan
Kumar and Ms. Suchita Kumari,
Advts.

versus

THE STATE GOVT. OF NCT OF DELHIRespondent

Through: Mr. Hitesh Wali, APP
Mr. Shiv Chouhan (DHCLSC) with
Ms. Surbi Arora and Mr. Siddharth
Arora, Advts for Prosecutrix.

CORAM:
HON'BLE MR. JUSTICE RAVINDER DUDEJA

ORDER
26.03.2025

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1. This is a petition under Section 439 Cr.P.C. readwith Section 482 Cr.P.C. (Section 528 BNSS) for grant of bail in FIR No.0303/2021 registered at P.S. Aman Vihar, Delhi under sections 354C/354D/509/506 IPC and section 12 of POCSO Act and sections 66D/67B of IT Act, 2000.
2. The learned counsel for the petitioner/accused submits that the SIM of the mobile phone is in the name of the victim and that the SIM is issued only to those persons who are major and, therefore, prosecutrix is not a minor. It is further submitted that there is delay in registration of F.I.R., the applicant has clean antecedents and is not previously involved in any other criminal case and is in judicial custody since 02.06.2021.
3. The bail application has been opposed by the learned APP on the lines



of the status report. He further submits that on the basis of the School Leaving Certificate, the applicant was aged about 14 years at the time of the commission of the offence. He further submits that the applicant had posted the nude photographs of the victim on Facebook and the same stands corroborated from the forensic evidence.

4. It is argued that the allegation *qua* the petitioner is grave and serious and, therefore, does not deserve the liberty of grant of bail.

5. The F.I.R. in this case has been registered on the complaint of the brother of the victim. As per the F.I.R., the brother of the victim was informed by some of the relatives that there were some nude photographs of the victim uploaded on the Facebook. When he asked his sister about the Facebook ID, she told him that she does not know anything about the Facebook ID and it could be Nazims' ID(Accused) who used to be their neighbourer 5-6 years ago.

6. As per further allegations, applicant Nazim was teasing the victim for the past 4-5 years and used to call her through his mobile number. When the brother of the victim came to know about these facts, he talked to the victim and also asked the applicant to stop his antics but applicant kept following her and pressurized her to talk. He kept torturing and blackmailing the victim over WhatsApp on the pretext of marriage. He took screenshots of the victim's nude photographs through WhatsApp video call and uploaded them on Facebook.

7. At the time of her medical examination, the victim narrated before the doctor that she met the applicant 5 years back, both became friends and shared their phone numbers and started talking and meeting each other in public places. She further stated that applicant came to her house in April



2017 and while she was alone, he gave her some pills for headache. After taking the pills, the victim became unconscious. The applicant taking advantage took her pictures in naked condition and made a video.

8. After two days, he asked her to make sexual intercourse with her. Both had sexual intercourse with victim's consent. They had sexual intercourse multiple times for one month. The victim became pregnant and had to take MTP pills.

9. On 14th May, 2021 victim got engaged, whereafter the applicant shared those videos with her relative and had also circulated those videos on internet in April 2017.

10. The learned APP submits that the statement of victim was recorded under Section 164 Cr.P.C. in which she supported her earlier version of MLC.

11. During investigation, the mobile phone of the applicant was seized and sent to FSL for the analysis. The complainant also produced a pen drive containing 10 audio clips of the applicant in which he was threatening the victim and her family members.

12. The FSL report confirms that the applicant's mobile phone was containing nude pictures of the victim which were uploaded by him on Facebook. The report also confirms that voice in the audio clips was of the applicant.

13. As per the birth certificate, the date of birth of the prosecutrix is 27.08.2001. Thus, *prima facie* the victim was a minor at the time of the alleged incidence. The issuance of the SIM Card is no proof of the age of the victim. Being minor, consent of victim for sexual intercourse is no consent.

14. The learned APP has informed that examination-in-chief of the victim



has since been recorded and she has supported the prosecution version. She is still under cross-examination.

15. Keeping in view the entire facts and circumstance, in the light of submissions made and in particular the fact that the victim was a minor at the time of the commission of the alleged offence, the allegations being grave and serious in nature, in my view, this is not a fit case for grant of bail to the applicant/accused.

16. The application is therefore dismissed.

RAVINDER DUDEJA, J

MARCH 26, 2025

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