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

+ **BAIL APPLN. 3730/2024**

NAGENDER BHATI

.....Petitioner

Through: Mr Kanhaiya Singhal, Ms Tamanna Agarwal, Ms
Anisha Rastogi, Mr Abhishek Prakash and Mr
Binwant Singh, Advs.

versus

STATE (NCT OF DELHI)

.....Respondent

Through: Ms Priyanka Dalal, APP for State
SI Rekha Chauhan, PS-Pandav Nagar
Mr Rajeshwar Singh, Mr Chaitanya Singh and Ms
Neeraj Singh, Advs. for victims.

CORAM:

HON'BLE MR. JUSTICE JASMEET SINGH

ORDER

08.01.2025

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1. This is a petition filed under section 439 of Code of Criminal Procedure, 1973 seeking grant of regular bail in FIR No. 676/2021, dated 14.11.2021, registered at Police Station-Pandav Nagar, under Sections 376/506/34 of IPC, 1860 and Section 12 of the POCSO Act.
2. In the present case, the charges against the petitioner have been framed under sections 3760, 376(2)(n), 376(3), 354, 354B, 506 of IPC, 1860 and Sections 10/9/5/6 of the POCSO Act *vide* order dated 12.08.2022.
3. The case set up by the prosecution is that the complainant Ms. 'G' and her husband used to work in the fields of one, namely, Rakesh. On 13.06.2021, the husband of the complainant Ms 'G' had gone out for some work. Being alone in the *jhuggi*, complainant 'G' called a minor girl Ms.



‘M’ from the nearby *jhuggi*. Two of them were lying at a cot when the two persons namely Mr. Naval Singh (co-accused) and petitioner i.e. Mr. Nagender Bhati entered *jhuggi*. It is alleged that the petitioner took Ms. ‘M’ outside the *jhuggi* to untie the knot of a cattle. In the meantime, the other co accused Mr. Naval Singh committed sexual assault on the complainant Ms ‘G’, however, the complainant Ms ‘G’ managed to push Mr. Naval Singh and while rushing out of the *jhuggi* she saw that the Ms. ‘M’ was crying because the petitioner had removed her *paijama* (lower trouser). She saved Ms. M from the clutches of the petitioner whereupon they fled from the spot.

4. In the present case, the complainant ‘G’ has not supported the case of the prosecution in her cross-examination and consequently, Mr. Naval Singh was granted bail on 22.02.2024.

5. Victim ‘M’ on the other hand has supported the case of the prosecution and has already been cross-examined.

6. In view of the facts narrated above, it seems that the allegations against the petitioner at best can be under Sections 354/354-B of IPC, 1860 and Sections 9/10 of the POCSO Act. Since the complainant ‘G’ has not supported the case of the prosecution, sections 376D/376(3) and 376(2)(n) of IPC, 1860 may not survive against the petitioner. In view thereof the maximum sentence which can be imposed upon the petitioner can be 7 years under Section 10 of POCSO Act.

7. As per the Nominal Roll dated 10.12.2024, the petitioner has undergone incarceration for a period of 3 years and 27 days. In addition, there is no other pending case against the petitioner and the conduct of the petitioner is also stated to be “satisfactory”.

8. Section 479 proviso of BNSS indicates that a first-time offender may



be released on bail if he has undergone detention for a period upto one-third of the maximum sentence.

9. The petitioner is an under-trial prisoner and the allegations against him are yet to be proved. On instructions of the Investigating Officer, it is informed that there are 21 witness cited by the prosecution, out of which only 10 witness have been examined till date.

10. I am of the view that the trial is not likely to conclude in near future and the continued incarceration of the petitioner will not serve any purpose. Moreover, the co-accused has already been granted bail.

11. For the aforesaid reasons, the petitioner is directed to be released on bail subject to the following conditions:

- (a) The petitioner shall furnish a personal bond in the sum of Rs. 10,000/- (Rupees Ten Thousand Only) with one surety of the like amount to the satisfaction of the concerned Trial Court;
- (b) The petitioner shall provide his mobile number to the concerned Investigating Officer, which shall be kept in working condition and switched on at all times.
- (c) The petitioner shall also furnish his residential address and in case he changes his address, he will inform the same to IO concerned and this Court as also;
- (d) The petitioner shall not leave the country without permission of the concerned Court during the bail period and surrender his passport, if any, at the time of release before the concerned Court.
- (e) The petitioner shall not directly/indirectly try to get in touch with the complainant or any other prosecution witness or



tamper with the evidence.

- (f) The petitioner shall not indulge in any act or omission that is unlawful, illegal or that would prejudice the proceedings in pending cases, if any;

12. Nothing stated hereinabove shall tantamount to an expression of opinion on the merits of the case.

13. Copy of this order be communicated to the concerned Jail Superintendent electronically for information.

14. The petition is disposed of accordingly.

JASMEET SINGH, J

JANUARY 8, 2025

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Click here to check corrigendum, if any