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

+ **BAIL APPLN. 3959/2024**

INAMUL SHEIKH

.....Petitioner

Through: Mr. Shahid Ali, Mr. Sameer Tayyeb
and Mohd Salman, Advs.

versus

STATE THROUGH SHO PS JAMIA NAGARRespondent

Through: Mr. Naresh Kumar Chahar, APP for
the State along with SI Anil Kumar.

CORAM:

HON'BLE MS. JUSTICE SWARANA KANTA SHARMA

ORDER
21.01.2025

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1. The present bail application under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereafter 'BNSS') has been filed on behalf of the applicant, seeking grant of regular bail in case arising out of FIR bearing no. 151/2023, registered at Police Station Jamia Nagar, Delhi, for offences punishable under Section 376 of the Indian Penal Code, 1860 (hereafter 'IPC') and Section 6 of the Prevention of Children from Sexual Offences Act, 2012 (hereafter 'POCSO Act').

2. The present FIR came to be registered on the complaint of continuous sexual assault committed by the accused Inamul Sheikh, at the instance of the mother of the victim. The victim in this case, who was aged 14 years at the time of the incident in question, alleges that she had been repeatedly sexually assaulted by the accused herein, whom she used to consider and



address as ‘uncle’ (*chacha*). It is after the accused had morphed her picture in objectionable/obscene condition that the incident was revealed by the victim to her mother and a complaint in this case was lodged.

3. The learned counsel appearing for the applicant states that the applicant has been falsely implicated in this case, at the instance of the mother of the victim. It is contended that the witnesses in this case, including the victim, have been examined and no public witness remains to be examined. It is also stated that the victim herein had refused to undergo internal examination. The learned counsel also states that the accused herein has been in custody for more than 1 year and 9 months, and no useful purpose would be served by denying bail to him, since the trial will take some time to conclude. It is also stated that the CFSL report has not been received as yet and no objectionable photographs were found in the mobile phone of the accused herein. Therefore, it is prayed that bail be granted to the accused.

4. The learned APP for the State, on the other hand, opposes the bail application and states that the allegations levelled by the victim are serious in nature and that there is sufficient incriminating evidence on record, as would be revealed by the perusal of the statements recorded under Sections 164 and 161 of the Code of Criminal Procedure, 1973 (hereafter ‘*Cr.P.C.*’) and the evidence collected during investigation. The learned APP for the State also argues that it is a case of repeated sexual assault committed upon the victim who was only 16 years of age, and all the witnesses, including the victim, have corroborated the prosecution case, when their statements were recorded before the learned Trial Court. It is argued that considering the nature of allegations and the punishment, which is attracted in this case, the



application be rejected.

5. This Court has heard arguments advanced by the learned counsel for the parties and has gone through the record, including the testimony of the witnesses recorded before the learned Trial Court, the MLC, the statement recorded under Section 164 of the Cr.PC recorded by the learned Magistrate and the initial complaint lodged in this case.

6. Having perused the same, this Court is of the view that the victim in this case was merely 14 years of age and as per her statement, she was studying in 8th standard at the time of lodging the complaint. The accused herein is not only the neighbour, but his daughter is also a friend of the victim. There are allegations in the statements recorded under Sections 164 and 161 of the Cr.PC and the testimony recorded before the learned Trial Court that the accused herein had shown a nude photograph to the victim and had asked the victim to bring her Aadhaar Card and run away with him, blackmailing her that in case she will not do so, he will make the photographs and the alleged video of her public. There are specific allegations that he also used to give her some pills, which she used to consume and get dizzy afterwards. There are specific allegations of repeated sexual assault committed by the accused herein on the victim.

7. What adds to the gravity of the offence is the fact, which emerged during investigation, that the victim was of the age of daughter of the accused and taking advantage of the fact that they were neighbours and she used to address him as uncle, repeated sexual assaults had taken place. The argument that the victim herself had refused to undergo internal examination, at this stage, is unmerited. Since the learned counsel appearing for the applicant relied upon the statement of the victim, recorded before the



learned Magistrate under Section 164 of Cr.PC, this Court notes that the said statement describes as to how penetrative sexual assault was committed upon the victim, who was studying in 8th standard. Moreover, at the stage of grant of bail, this Court is not required to discuss in detail about the merits of the case, lest it affects the case of the accused at later stage of trial.

8. In view thereof, no case for grant of regular bail is made out.
9. The bail application is accordingly dismissed.
10. Nothing stated hereinabove shall tantamount to an expression of opinion on merits of the case.
11. The order be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

JANUARY 21, 2025/A

Click here to check corrigendum, if any