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

+ **BAIL APPLN. 4180/2024**

TAUFIK

.....Petitioner

Through: Mr Pushpendra Kr Dhaka., Adv.

versus

STATE GOVT. OF N.C.T. OF DELHI

.....Respondent

Through: Mr. Manoj Pant, APP for the State

CORAM:

HON'BLE MS. JUSTICE SWARANA KANTA SHARMA

ORDER

03.02.2025

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1. The present bail application under Section 483 of the Bhartiya Nagarik Suraksha Sanhita, 2023 (hereafter 'BNSS') has been filed on behalf of the applicant seeking grant of regular bail in case arising out FIR No. 322/2018, registered under Section 376 of the Indian Penal Code, 1860 (hereafter 'IPC') and Sections 6/10 of the Protection of Children of Sexual Offences Act, 2012 (hereafter 'POCSO Act'), at Police Station Sagarpur, Delhi.

2. Brief facts of the present case are that on 07.08.2018, a PCR call was received regarding an alleged incident of sexual assault of a 4 years old girl at Kailashpuri Extension, Delhi. The complaint was filed by the mother of the victim, who used to run a gas repairing shop, who informed that there was a barber shop adjacent/opposite to her shop, in which a man named Taufiq i.e. the accused herein used to work. At around 2:45 pm on



07.08.2018, the accused had called the victim in his shop and after some time, the victim had come outside and informed her mother that Taufiq had inserted his finger in her private part. The complainant had thereafter confronted the accused and had slapped him. Eventually, when her husband had come home, they had informed the police authorities about the same through a PCR call and the present FIR was registered. The accused/applicant was arrested on 08.08.2018 and is in judicial custody since then.

3. The learned counsel appearing for the applicant argues that in the MLC of the victim, no injury or assault has been recorded. It is further argued that the mother and father of the victim have already been examined before the learned Trial Court and in case the applicant is granted bail, there is no likelihood that any witnesses will be influenced by the applicant. It has also been pointed by the learned counsel appearing for the applicant the process of trial is going very slow and only five witnesses out of fifteen have been examined till date and owing to same, the applicant has been in judicial custody for six years. Therefore, it is prayed that the present application be allowed and the applicant be granted bail.

4. *Per contra*, the learned APP for the State argues that the allegations against the applicant are serious in nature. It is stated that as per the MLC of the victim, there was “Redness (+) on External Vulval region”. It is argued that the victim and her parents have supported the case of prosecution before the learned Trial Court. Therefore, it is prayed by the prosecution that the present petition be dismissed and the applicant is not granted bail.

5. This Court has heard arguments addressed by the learned counsel for both the sides and perused the material available on record.



6. In the present case, there are grave and serious allegations against the applicant, who stands accused of committing sexual assault upon a 4-year-old girl. This Court notes that Medical Examination of the victim was conducted at DDU Hospital *vide* MLC 271/2018 dated 08.08.2018, which indicated that there was “Redness on External Vulvular region”. In the MLC, it is also recorded that the victim had given history of pain in her private parts and insertion of finger inside her vagina.

7. A perusal of the testimony of the victim recorded before the learned Trial Court reveals that the victim, who used to study in Kindergarten at that point of time, had gone to her mother’s shop. When her mother had gone to her home for a while, the applicant herein – whose shop was located adjacent to the shop of victim’s mother – had come near the victim, and the victim before the learned Trial Court has specifically deposed that the present applicant had pulled her underwear and inserted his finger in her private part, after which the victim had started crying. The victim has also correctly identified the present applicant before the learned Trial Court. In her cross-examination, the victim has also denied the suggestion that her parents had tutored her to level such allegations against the applicant.

8. Therefore, considering the seriousness and gravity of the offence, the fact that the victim has supported the prosecution’s case in her statement recorded under Section 164 of Cr.P.C. and in her testimony before the learned Trial Court, and also taking into account the fact that the victim in this case was of tender age i.e. 4 years old at the time of incident and the accused herein, taking advantage of the fact that he was known to the victim, had sexually assaulted her, this Court finds no ground to grant bail to the applicant at this stage.



9. However, the learned Trial Court is directed to ensure that testimonies of remaining prosecution witnesses are recorded expeditiously.
10. The bail application is accordingly dismissed.
11. It is however, clarified that nothing expressed herein above shall tantamount to opinion expressed on the merits of the case before the learned Trial Court.
12. The order be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

FEBRUARY 03, 2025/AC

Click here to check corrigendum, if any