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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 4309/2024 & CRL.M.(BAIL) 1966/2024**
ROHAN SINGH

.....Petitioner
Through: Ms. Sakshi, Ms. Richa Kapoor, Advs.

versus

STATE (NCT OF DELHI)

.....Respondent
Through: Mr. Sunil Kumar Gautam, APP
SI Kirti, SI Sachin
PS Amar Colony

CORAM:
HON'BLE MR. JUSTICE JASMEET SINGH

ORDER
08.01.2025

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1. This is a petition seeking bail in F.I.R No. 299/24 under Sections 376 of IPC and Section 6 of POCSO Act, 2012 dated 31.08.2024 registered at Police Station: Amar Colony.
2. As per the F.I.R, it is stated that the petitioner established physical relations with the complainant and there were talks of marriage. Thereafter, the complainant got pregnant.
3. Admittedly, the petitioner at the time of the alleged incident was about 22-23 years old and the age of the complainant was around 17 years old.
4. The petitioner submits that the petitioner and the prosecutrix were in a relationship and had engaged in consensual sexual activity multiple



times leading up to the pregnancy.

5. The complainant in her statement under section 164 CrPC recorded before the learned Magistrate has stated that the relationship was consensual and there was no physical force or coercion by the petitioner.
6. The complainant is present in Court as well and has reiterated the same.
7. The Coordinate Bench of this court in judgment dated 14.08.2024 in BAIL APPLN. 2419/2023 titled '*Sahil v. The State NCT of Delhi*' granted bail wherein the prosecutrix was about 17 years of age and the petitioner/accused was just about 21 years of age. The operative portion reads as under:-

“9. Material on record indicates that at the time of incident, the Prosecutrix was about 17 years old and the Petitioner was about 21 years old. A reading of the statements of the Prosecutrix given before the Doctors, her statement under Section 161 Cr.P.C and her statement under Section 164 Cr.P.C shows a marked change in the stand of the Prosecutrix. In her statement before the doctors and in her statement under Section 161 Cr.P.C. the Prosecutrix has stated that she has gone with the Petitioner on her own while in her statement under Section 164 Cr.P.C the Prosecutrix has stated that the Petitioner took her forcefully. This Court can also take judicial notice of the fact that the Prosecutrix has eloped from her house twice and has returned back. This Court is of the opinion that the present case is of love affair between the Prosecutrix and the Petitioner. Consensual sex between girls who are just below the age of 18 years and boys who are just above 20 years has been in legal grey area because the consent given by a minor girl cannot be said to be a valid consent in the eyes of law.

....



11. This Court has been constantly seeing that POCSO cases are being filed at the behest of the girl 's family who object to her friendship and romantic involvement with a young boy and the law is being misapplied in such cases which results in young boys, who have genuinely fallen in love with girls who are just below 18 years of age, languishing in jails.

...

16. The statement given by the Prosecutrix before the doctors that her mother knew about her relationship with the Petitioner and that the FIR has been lodged by her mother only because the Petitioner herein had refused to change his religion, gives an indication that the present FIR was lodged at the behest of the parents of the Prosecutrix who did not approve of the relationship between the Petitioner and the Prosecutrix. This Court can also take judicial notice of the fact that after the Prosecutrix was found and returned to her parents, the Prosecutrix would have been pressurized by her parents to change her statement.

17. This Court is of the opinion that if the Petitioner continues to be in jail, the chances of the Petitioner coming out as a hardened criminal are very high. The future of a youngster cannot be ignored by this Court at this juncture.

18. Accordingly, considering the facts and circumstances of the present case, and also considering the age of the Prosecutrix and the Petitioner herein, the fact that the Prosecutrix has changed her stand in her statements and the fact that she has been found missing on two earlier occasions as well, and also the fact that the Petitioner is not of such strata that he would be in a position to influence the Prosecutrix, this Court is inclined to grant bail to the Petitioner on the following conditions:....”

(“Emphasis Supplied”)

8. The Court observed that there is a practice of family of the prosecutrix



objecting to romantic involvement of the girl and POCSO cases are being filed on their behest. It was the view of the court that in such cases, the law is being misapplied. The court considered that the parties had a relationship prior to filing of the FIR and the prosecutrix changed her statement u/s 161 and 164 of Cr.PC wherein she admitted to the same. In such circumstances, the court granted bail to the accused keeping in mind that if the petitioner continues to be in jail, the chances of the petitioner coming out as a hardened criminal is very high.

9. In the present case, the prosecutrix/complainant has admitted to the relationship with the petitioner being consensual and without undue influence, threat, pressure or coercion.
10. This statement of the prosecutrix makes it clear that there was a romantic relationship between the parties and the sexual act between them was not out of coercion or by use of force.
11. I am of the view that the future of youngsters should not be ignored by the Court in case of an incident where the parties were in their teens (or near about) and were in love with each other. As already observed by me, the POCSO Act was not enforced to criminalize consensual romantic relationships between young adults but to protect them from sexual exploitation.
12. For the said reasons, and relying on the judgment of *Sahil (supra)*, I am inclined to allow the present petition.
13. For the said reasons, the petition is allowed and the petitioner is directed to be released on regular bail in F.I.R No. 299/24 under Sections 376 of IPC and Section 6 of POCSO Act, 2012 dated 31.08.2024 registered at Police Station Amar Colony subject to the



following terms and 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 IO, which shall be kept in working condition and switched on at all times. The petitioner shall also provide his permanent residential address and in case of change of residential address or contact details, the petitioner shall promptly inform the same to the concerned IO as well as to the concerned Court;
- (c) The petitioner shall report to the local Police Station on the first Monday of every month;
- (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 applicant shall not directly/indirectly try to get in touch with the prosecutrix or her family or any prosecution witnesses or tamper with the evidence.

14. The observations made in the present petition are only for deciding the present matter and will have no bearing on the merits of the case.

JASMEET SINGH, J

JANUARY 8, 2025/sp

Click here to check corrigendum, if any