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

+ **BAIL APPLN. 4320/2024**

MD. SHAUKAT

.....Petitioner

Through: Mr. Abdul Wasih, Mr. MS Husain,
Mr. Furqan Ali Mirza, Mr. Asim
Kirmani, Advs.

versus

STATE OF NCT OF DELHI

.....Respondent

Through: Ms. Priyanka Dalal, APP with SI
Pratiksha, PS Prem Nagar

CORAM:

HON'BLE MR. JUSTICE JASMEET SINGH

ORDER

08.01.2025

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1. This is a petition seeking bail in FIR No. 299/2024 dated 30.06.2024 registered at PS Amar Colony under Section 363, 376 (2) (n) of IPC and Section 6 of POCSO Act.
2. As per the FIR, father of the prosecutrix lodged a missing report stating that her minor daughter Ms. R was found missing.
3. At the time when the said report was filed, the prosecutrix was 15 years old.
4. During the investigation, the police found the minor girl at Mumbai with the petitioner on 21.12.2021. The police brought her back to Delhi where she was counselled by an NGO and her medical examination was conducted at SGMH, Mangolpuri. The medical examination revealed that the victim was 6 months pregnant and hence she was admitted to the



hospital.

5. Since the victim gave consent for MTP, the child was aborted, and the FSL report showed that the petitioner was the biological father of the aborted child. The age of the victim was verified from the school and her date of birth was found to be 11.05.2006.

6. Hence, on the date when the victim was missing, she would be of the age of 15 years and a few months.

7. Mr. Wasih, learned counsel for the petitioner states that the relationship between the victim and the petitioner was consensual.

8. He further states that the petitioner has been in custody since 24.12.2021 and in addition, the prosecutrix has only partially been examined and there are about 27 witnesses.

9. He further relies on the judgment of ***Balwinder Singh vs. State of Punjab, SLP (Crl) No. 8523 of 2024*** and more particularly on para 10 which reads as under:-

“Considering the above and to avoid the situation of the trial process itself being the punishment particularly when there is presumption of innocence under the Indian jurisprudence, we deem it appropriate to grant bail to the petitioner- Balwinder Singh. It is ordered accordingly. Appropriate bail conditions be imposed by the learned trial court.”

10. No doubt that right to speedy trial is a fundamental right of every citizen but the Court cannot ignore the fact regarding the allegations against the petitioner.

11. In the present case, the petitioner has taken a minor child of 15 years to Mumbai and has had physical relationship with her and consequently the minor child was impregnated.



12. The Court also cannot be oblivious to the fact that the victim is still under examination and releasing the petitioner, at this stage, may influence the testimony of the child victim and compromise her testimony. In addition, the victim in her statement made under Section 164 of Cr.P.C. has implicated the petitioner.

13. For the said reasons, I am not inclined to entertain the petition at this stage.

14. The petition is accordingly dismissed.

15. The status report and Nominal Roll are taken on record.

JASMEET SINGH, J

JANUARY 8, 2025/DM

[Click here to check corrigendum, if any](#)