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IN THE HIGH COURT OF DELHI AT NEW DELHI

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BAIL APPLN. 4443/2024

BASANT KUMAR

.....Petitioner

Through: Mr. Jai Subhash Thakur, Adv.

versus

THE STATE GOVT. OF NCT OF DELHI

.....Respondent

Through: Mr. Ajay Vikram Singh, APP for State
with SI Ambika, PS. SB Dairy.

CORAM:

HON'BLE MR. JUSTICE VIKAS MAHAJAN

ORDER

13.01.2025

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1. The present petition has been filed under Section 483 BNSS seeking regular bail in connection with FIR No. 754/2023 under Sections 376/506 IPC and Section 6 of POCSO Act registered at Police Station Shahbad Dairy.
2. The case of the prosecution is that the victim alleged that the present accused sexually assaulted her many times. It is further the case of the prosecution that the victim became pregnant and she delivered a baby on 02.09.2023. This led to the registration of the aforesaid FIR.
3. The learned counsel for the petitioner submits that the petitioner has been falsely implicated. He further submits that the FSL report on the basis of DNA profile of the present petitioner, as well as, of the child has clearly opined that the petitioner is not the biological father of the child.
4. He submits that all the material witnesses have been examined, cross-examined and discharged in the present case.
5. He further submits that the antecedents of the present petitioner are clean and he is also not a flight risk. He, therefore, urges the Court that the present petitioner be released on bail.



6. *Per contra*, the learned APP for the State has argued on the lines of the Status Report.

7. On a query posed by the Court, the learned APP on instructions from the I.O, who is present in Court, fairly concedes that the FSL Report does not support the case of the prosecution. It is clearly mentioned in the FSL Report that the present petitioner is not the biological father of the child.

8. It is also not in dispute that all the material witnesses have been examined in the present case, therefore, there is no apprehension that the petitioner on being released is likely to influence the witnesses.

9. Further, the antecedents of the petitioner are clean. It is also not the case of the prosecution in the Status Report that the petitioner is a flight risk.

10. In so far as the petitioner's presence before the learned Trial Court during the trial is concerned, the same can be ensured by putting appropriate conditions.

11. Considering the aforesaid circumstances in entirety, this Court is of the view that the petitioner has made out a case for grant of regular bail. Accordingly, the petitioner is enlarged on bail subject to his furnishing a Personal Bond in the sum of Rs. 10,000/- and one Surety Bond of the like amount to the satisfaction of the Trial Court/CMM/Duty Magistrate, further subject to the following conditions:-

- a) Petitioner shall appear before the Court as and when the matter is taken up for hearing.
- b) Petitioner shall provide mobile number to the IO concerned which shall be kept in working condition at all times and he shall not change the mobile number without prior intimation to the Investigating Officer concerned.



c) Petitioner shall not change his address without prior intimation to the Investigating Officer concerned.

d) Petitioner shall not indulge in any criminal activity and shall not communicate with or come in contact with the victim or other witnesses.

12. The petition stands disposed of.

13. It is clarified that the observations made herein above are only for the limited purpose of deciding the present bail application and the same shall not be construed as an expression of opinion on the merits of the case.

14. Copy of the order be forwarded to the concerned Jail Superintendent for necessary compliance and information.

15. Order *dasti* under signatures of the Court Master.

16. Order be uploaded on the website of this Court.

VIKAS MAHAJAN, J

JANUARY 13, 2025/dss