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

+ **BAIL APPLN. 4452/2024 & CRL.M.(BAIL) 2052/2024**

SAURABH PATIL

.....Applicant

Through: Mr. Rahul Kumar Verma and Ms.
Srishti Guha, Advs.

versus

THE STATE (G.N.C.T. OF DELHI) AND ANRRespondents

Through: Mr. Raj Kumar, APP for the State
along with SI Avanti Rani, PS Sarai
Rohilla Delhi.

CORAM:

HON'BLE MS. JUSTICE SWARANA KANTA SHARMA

ORDER

15.01.2025

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1. The present bail application under Section 483 read with Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereafter '*BNSS*')/Section 483 of the Code of Criminal Procedure, 1973 (hereafter '*Cr.P.C*') has been filed on behalf of the applicant, seeking grant of regular bail in case arising out of FIR bearing no. 346/2023, registered at Police Station Sarai Rohilla, Delhi, for offences punishable under Section 6/10/12 of the Prevention of Children from Sexual Offences Act, (hereafter '*POCSO Act*') and Sections 363/376(2)(n)/366/368/506 of the Indian Penal Code, 1860 (hereafter '*IPC*').

2. Briefly stated, the present FIR was registered on the statement of the victim's mother regarding missing of her 16 years old daughter. It is stated that on 01.06.2023, the victim (missing girl) was recovered by the missing



person cell along with the accused from the residence of the accused in Balaghat, Madhya Pradesh. Thereafter, the victim was got counselled by the DCW Counsellor wherein allegations of rape and sexual assault came into light. Therefore, Section 376(2)\(n) of IPC and Section 6 of POCSO Act were invoked. It is also stated that during investigation, on 01.06.2023, the victim was medically examined at Hindu Rao Hospital, wherein the victim had denied for internal examination. The statement under Section 164 of Cr.P.C. of the victim was recorded before the learned Magistrate. The mobile phones of the accused and the victim were also recovered from his home, analyzed, seized, and the same were sent to FSL, Rohini for verification. The bone ossification of the victim was conducted at Hindu Rao Hospital regarding the age of the victim. As per the bone ossification report, the estimated age of the victim was found between 21- 22 years.

3. The learned counsel appearing for the applicant states that the victim in this case, as per ossification test, is about 21 years of age. It is stated that it was a consensual relationship and the victim herein had accompanied the accused out of her own free will. It is stated that they had entered into a live-in relationship agreement, which is also on record. It is stated that she had voluntarily married the accused, which is also reflected from the marriage certificate, which is on record. Therefore, it is prayed that applicant be granted regular bail.

4. The learned APP for the State though does not dispute the existence of live-in-relationship agreement between the parties, but at the time, argues that statements of the victim under Sections 161/164 of the Cr.PC support the prosecution's case.

5. The victim, present in Court, states that the live-in-relationship



agreement, which is on record is in Hindi and was signed by her and bears her signatures. However, she states that she had not read the contents thereof.

6. This Court has heard arguments addressed on behalf of both the parties and has perused the material available on record.

7. This Court has also gone through the statement of the victim under Section 161 of the Cr.PC, wherein she mentioned that she had gone through the entire contents of the live-in-relationship agreement and there was no pressure upon her and therefore she had signed the same. The prosecutrix had also refused to undergo internal medical examination, though medication examination stands conducted. Though in her statement under Section 164 of the Cr.PC, the victim states that her inappropriate photographs were also morphed by the applicant, however, the Investigating Officer (IO) states that no such inappropriate photographs etc. were found in the mobile phones seized, either belonging to the accused or the victim. The victim herein had lived with the applicant for about 15 days. The victim and the accused were traced by the Police by the location of the phone of the present accused. The accused has been in judicial custody for the last more than 18 months.

8. Thus, considering the overall facts and circumstances of case and the fact that the live-in-relationship agreement has been concededly signed by the victim and the trial will take some time to conclude, this Court is inclined to grant regular bail to the applicant on his furnishing personal bond in the sum of Rs.10,000/- with one surety of the like amount to the satisfaction of the Trial Court/Successor Court/Link Court/Duty Judge concerned on the following terms and conditions:



- (i) The applicant shall not leave country without prior permission of the concerned Trial Court.
 - (ii) The applicant shall not directly or indirectly make an attempt to influence the witnesses or tamper with the evidence in any manner.
 - (iii) The applicant shall not make any effort to approach the victim.
 - (iv) In case of change of residential address/contact details, the applicant shall promptly inform the same to the concerned Court.
 - (v) The applicant shall appear regularly before the learned Trial Court and/or as and when directed by the learned Trial Court.
9. The bail application stands disposed of.
10. The order be uploaded on the website forthwith.

JANUARY 15, 2025/A

SWARANA KANTA SHARMA, J

Click here to check corrigendum, if any