



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

% **Reserved on : 28.07.2023**
Pronounced on : 14.09.2023

+ **BAIL APPLN. 43/2023**

SH. PAPPU KUMAR THAKUR Petitioner

Through: Mr. Virender Verma, Advocate.

versus

THE STATE (GOVT. OF NCT OF DELHI) Respondent

Through: Mr. Amit Ahlawat, APP for the State
with SI Maneeta, PS Neb Sarai.
Ms. Gayatri Nandwani and Ms.
Mudita Sharda, Advocates for
Complainant (*through video
conferencing*).

CORAM:
HON'BLE MR. JUSTICE RAJNISH BHATNAGAR

ORDER

RAJNISH BHATNAGAR, J.

1. The present bail application has been filed by the petitioner under Section 439 Cr.P.C. for grant of regular bail in case FIR No. 104/2021 under Sections 354/376/384/506/509/417/467/471 IPC and Section 6 of POCSO Act registered at Police Station Neb Sarai.

2. Briefly stated, the facts of the case are that the present FIR was registered on the complaint of prosecutrix Ms."S" who in her complaint



alleged that Pappu Kumar Thakur (present petitioner) had committed wrongful acts with her and sexually exploited her when she was a minor child of 13 years. She further alleged that petitioner has been exploiting her for the last ten years and has blackmailed her, abused her, gave beatings to her, threatened her to make her photos viral and also, sent some photos of the prosecutrix to her office staff. Subsequently, the prosecutrix got married to petitioner on 11.07.2018 but the petitioner continued to threaten the prosecutrix, exploit her, abuse her and also, abused her parents. It is further alleged by the prosecutrix that the petitioner got prepared a fake Voter ID Card in her name in which her name was mentioned as 'Sarita'. Furthermore, the petitioner also got transferred a sum of Rs. 2,00,000/- and Rs. 54,000/- from the account of the prosecutrix into his account, used her credit card and even failed to pay the bills of credit card. It is further alleged that the petitioner was already married and has two children but he gave false assurances to the prosecutrix by stating that he had given divorce to his first wife.

3. During investigation, medical examination of the prosecutrix was conducted at AIIMS hospital vide MLC No. 2997/2021 wherein she stated that she got married with petitioner on 11.07.2018 and they have been having physical relations since then. The petitioner was arrested on 26.03.2021.



4. I have heard the Ld. counsel for the petitioner, Ld. APP for the state assisted by the Ld. counsel for the complainant, perused the Status Report and also perused the records of this case.

5. It is submitted by the Ld. counsel for the petitioner that there is a delay of about 5 months in the registration of the FIR because the complaint was given by the victim/prosecutrix at police station on 27.10.2020 and the FIR was registered in this case on 26.03.2021. He further submitted that as per record the date of birth of the victim is 21.08.1995, so on the date of filing of complaint with the police station she had already attained majority, hence section 6 of the POCSO Act is not attracted in the present case.

6. It is further submitted by the Ld. counsel for the petitioner that prosecutrix went to Patna, Bihar on 30.05.2020 after sale of some property by the petitioner to get money from him and they even lived together from 04.06.2020 to 07.07.2020. He further submitted that the victim was already aware that petitioner was already married and having two children and he also referred to the copy of MOU dated 11.02.2020 entered into between the parties. He further submitted that the petitioner is in J.C. since 26.03.2021 and the charge sheet and supplementary charge sheets have already been filed.

7. It is further submitted by the Ld. counsel for the petitioner that the petitioner and the victim got married on 11.07.2018 and the copy of certificate of registration of marriage is on record. He further



submitted that petitioner is a barber whereas victim got a job in a Bank and, therefore, due to subsequent difference in status between them and differences in their personalities, disputes arose between them, therefore, a false case has been got registered against the petitioner.

8. It is further submitted by the Ld. counsel for the petitioner that no obscene photo of the victim is on record and disclosing to anyone that the victim was the wife of the petitioner is not an offence. He further submitted that on numerous occasions, petitioner helped the victim financially by giving cash to her. He further submitted that the victim has made contradictory statements at every stage.

9. On the other hand, Ld. APP for the State who was also assisted by the Ld. counsel for the victim/complainant has argued on the lines of the Status Report. He further submitted that petitioner was sexually exploiting the victim since she was 13 years of age. He further submitted that petitioner first made sexual relations with the victim in the year 2008 when she was a minor girl. He further submitted that petitioner mentally tortured the victim by making viral her photographs with him to her landlord, her boss and other persons. He further submitted that petitioner also prepared fake election ID card of the victim in the name of Sarita and he used the said fake ID of the victim to book hotels and a supplementary charge sheet in that regard has been filed. He further submitted that the victim signed the MOU dated 11.02.2020 under threats from petitioner so the same is of no use. He



further submitted that the petitioner married the victim by falsely telling her that he had taken divorce from his first wife, whereas he was already married having two children. He further submitted that petitioner also made viral victim's marriage photographs with him. It is further submitted by the Ld. APP that the petitioner used to purchase mobile phones from the credit cards of the victim.

10. It is further submitted by the Ld. APP that the allegations against the petitioner are grave and serious in nature. He further submitted that petitioner indulged in continuous sexual relationship with the minor victim from the year 2008 when she was 13 years of age, therefore, offences U/s 376 IPC and under Section 6 of POCSO Act are attracted in the present case. It is further submitted that the alleged marriage dated 11.07.2018 between the victim and the petitioner is illegal because admittedly the petitioner was already married on the said date. It is further submitted by the Ld. APP that the petitioner exploited the victim sexually as well as financially.

11. It has been argued by the Ld. counsel for the petitioner that the victim was not a minor on the date of incident, however, in the instant case, the charges have already been framed against the petitioner U/s 6 of the POCSO Act alongwith other sections of IPC and the petitioner has never challenged the order on charge for the deletion of Section 6 of the POCSO Act. The prosecution has relied on the school record of



the victim, according to which the date of birth of the victim is 21.08.1995 and therefore, she was a minor on the date of the incident.

12. The victim has been examined as PW-1 and she has made specific and categorical allegations against the petitioner and has also identified him during the course of her examination-in-chief. The victim in her testimony has also stated that the petitioner got her forged election ID card prepared from Bihar which was used by him in City House Hospital and the said election ID card was having the photograph of the victim with changed name as Sarita Kumari.

13. The victim was cross examined at length but at this stage, it would not be proper to deeply analyze the testimony of the victim PW-1 as it might prejudice the case of either of the parties. The counsel for the petitioner has argued that there are contradictions in the statement of the victim but he has not specifically pointed out those contradictions and as to whether these contradictions go to the root of the testimony of the victim so as to make her testimony unbelievable and unreliable.

14. In the instant case, the petitioner was already married having two children and despite that he made physical relations with a minor girl and subsequent recording of the MOU in the month of February, 2020 will not come to the rescue of the petitioner as he has been establishing physical relations with the victim since she was a minor aged about 13 years.



15. It has also been contended by the Ld. counsel for the petitioner that there is a delay of about 5 months in the registration of the FIR as the complaint was lodged on 27.10.2020 and the FIR was registered on 26.03.3021. In the instant case, the complaint was lodged by the victim at police station on 27.10.2020 and it was for the police officials to register the FIR promptly, so in these circumstances, the victim cannot be faulted for the delayed registration of FIR.

16. The allegations against the petitioner are grave and serious in nature. Therefore, keeping in view the facts and circumstances of this case and the specific allegations of taking money and establishing physical relations with the victim who was a minor girl despite the petitioner being a married man having two children, no ground for bail is made out. The bail application is, therefore, dismissed.

17. Nothing stated hereinabove shall tantamount to the expression of any opinion on the merits of this case.

RAJNISH BHATNAGAR, J

SEPTEMBER 14, 2023

Sumant