

Protection) Sandhya vs State (Nct Of Delhi) & Anr on 1 May, 2024

Author: Amit Sharma

Bench: Amit Sharma

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IN THE HIGH COURT OF DELHI AT NEW DELHI

BAIL APPLN. 36

Protection)

SANDHYA

STATE (NCT OF DELHI) & ANR.

CORAM:

HON'BLE MR. JUSTICE AMIT SHARMA

ORDER

% 01.05.2024

1. The present application has been received on transfer.

2. This is the second application under Section 438 read with Section 482 of the Cr.P.C. seeking anticipatory bail in case FIR No. 728/2022, under Sections 370/370A of the IPC, Section 81 of the Juvenile Justice (Care and Protection of Children) Act, 2015, Sections 6/17 of the Protection of Children from Sexual Offences Act, 2012, (for short „POCSO Act) and Sections 3/4/5/6 of the Immoral Traffic (Prevention) Act, 1956, registered at P.S. Govind Puri.

3. The previous application on behalf of the applicant was dismissed as withdrawn vide order dated 04.08.2023 in BAIL APPLN. 1787/2023.

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4. The case of the prosecution as per status report dated 28.02.2024, authored by Insp. Jadish Yadav, P.S. Govind Puri, is as under:

"Brief facts of case are that on 11.10.2022, a secret information regarding prostitution being carried out in flat no. 784, 2nd floor in Govind Puri Delhi was received to Shri Virender Kumar Singh from Mission Mukti Foundation at about 1.20 PM and the same was shared with the local Police, accordingly a raiding party was constituted comprising with Insp. Yogender Kumar, W/SI Meetu Yadav, W/Ct. Indres no. 4071 HC, Puran Chand no. 1494/SE, Ct. Dharmender no. 2120/SE, Ct. Vishnu Bhati no. 2268/ SE with staff of NCPCR, Mission Mukti Foundation, Rescue Foundation and Child Line staff. The uniform of HC Puran, Ct. Dharmender and Ct. Vishnu Bhati were got changed in civil clothes. Accordingly, HC Puran Chand, Virender Kumar from Mission Mukti Foundation and Akshay Pandey from Rescue Foundation were made decoy customers, after giving Rs. 2500/- (Five notes number denomination Rs. 500/- each) to HC Puran Chand and Virender Kumar and Akshay Pandey and asked them to reach at above flat no. 784, 2nd floor, Gali no. 7, Govind Puri Delhi and to ask the pimp present there to provide a girl, as the girl is available for them, they would make a signal through the balcony of the flat to inform the other raiding party members present in the street. At about 11 PM, decoy customer Virender Kumar Singh made signal with his hand, thereafter Insp. Yoginder Kumar with other members of the team reached at the flat at second floor and apprehended all the persons present there with the help of raiding party and got rescued 2 girls (1) "G" aged about 14 years' and (2) "K" aged about 17 years. Two Pimps identified by the Virender Kumar Singh, on enquiry one was identified as Md. Jami s/o Md. Illiyas r/o above fat and (2) Madhumita Mishra @ Priya w/o Nilothpal Mishra r/o above flat (owner of the flat), two other persons on enquiry ther were identified as Gaurav s/o Banwari Lal, and Neel @ Rajender. On taking search of Pimp Madhumita Mishra @ Priya Rs. 2500/- above were recovered from her right hand. Same were seized through the seizure memo. During taking search of Md. Jami, 4 condoms were recovered from his passion and the same were seized through the seizure memo. On examination rescued girl "G" aged 14 years stated that she was got contacted to the Pimp Madhumita Mishra @ Priya by one Anand resident of Gali no. 13 Govind Puri Delhi. They called the rescued victim "G" at her mobile phone no. 7835910279 to attend the customers. Anand and Madhumita Mishra (@ Priya used to pay Rs. 1500/- her for per customer. Pimp Md. Jami also used to This is a digitally signed order.

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been arrested in this case. Both the rescued girls have got been medically examined. Exhibits got preserved and same have been sent to FSL for examination.

2. During investigation the statements of rescued girls was T'Ccorted u/s 164 CrPC wherein survivor „G' stated that "she was in need of Rs. 5000-6000 to purchase a dress for her, for which she met to one Bhaiya Anand, who introduced her to the accused Madhumita Mishra (@ Priya, who told the victim to do sex work in exchange of money. Accordingly, she became ready for the same and did sex work for which, she used to get Rs. 1500/- per person.

3. Another victim Kajal (age-17 Years) also stated that she has been residing with accused Madhumita Mishra @ Priya for about last 5 years and doing sex work at the flat of the accused Madhumita Mita Mishra @ Priya. It is further submitted that the investigation of case has been completed and chargesheet of the above mentioned case has already been submitted before the Hon'ble court.

4. Accused Mohd Jami stated in his disclosure statement that on 11/ 10/2022 he called Sandhya (victim G 's Mosi) on her mobile no 8178722135 from his mobile no 9871629987 and later he picked victim „G' from her house and brought to place of incidence i.e, H.No. 784 2 nd Floor Govindpuri. During further course of investigation, notice u/s 91 CrPC were served to concerned nodal officer CDR's of accused persons Madhumita Mishra @ Priya and Mohd. Jami's mobile phones were obtained and analysed. After analysis of CDRs of accused Md Jami (8178722135) & Madhumita @ Priva, it was ound that alleged Sandhya was in regular contact with the accused.

5. During further course of investigation, mobile phones of accused Md Jami & Madhumita @ Priya were checked and it was found messages/audio recordings/voice calls used to be exchanged between alleged Sandhya and accused Md Jami & Madhumita (@ Priya through their respective whatsapp numbers. Search for the other victims whose photographs were found on the whatsapp of the accused was conducted but the victims could not be traced.

It is therefore, requested that from the above explained facts the bail of This is a digitally signed order.

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Grounds to oppose the Bail -

1. The accused/applicant lives in the same house of victim G, if bail is granted to her, she might threaten or induce the victim.
2. A few victim girls are yet to be traced, for that detailed custodial interrogation of the accused is required.
3. The offence committed by the applicant is grave in nature and since the applicant/accused is stepmother of victim G; it will cause traumatized victim mentally.
4. One other accused namely Biplob Sarkar @ Anand is absconding. The applicant/accused might help him to avoid the investigation.
5. She might jump the bail."

5. Learned counsel appearing on behalf of the applicant submits that the present application is being filed on account of the fact that this Court has granted regular bail to co-accused Farzan @ Neel Chaudhary vide order dated 31.10.2023, in BAIL APPLN. 2505/2023. It is submitted that while granting regular bail after completion of investigation and chargesheet qua the said applicant, this Court had observed that despite being arrested at the spot, the presence of the said applicant would be explained during the course of the trial. As far as the present applicant is concerned, she was never found at the spot. It is submitted that the name of the present applicant like the co-accused Farzan @ Neel Chaudhary was not named in the present FIR. Apart from the call detail records, there is no evidence at the moment with respect to the present applicant.

6. Per contra, learned APP for the State, on instructions of the Investigating Officer, submits that the applicant lived in the same house with survivor „G and as the latter was her step daughter. It is further submitted This is a digitally signed order.

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7. Heard learned counsel for the parties and perused the record.

8. So far as contention of learned counsel for the applicant seeking parity with co-accused Farzan @ Neel Chaudhary is concerned, it is suffice to say that the order was passed in regular bail and the present applicant has been clearly identified as the main accused in the present offence and her custodial interrogation as per the nature of the allegations and the facts narrated herein above is required. It is further noted that the previous application for anticipatory bail was dismissed as withdrawn on 04.08.2023. It is also an admitted fact that the survivor is the step daughter of the present applicant. It is also stated in the status report that certain photographs of other survivors were found in the Whatsapp of the present applicant, which are still to be traced.

9. In view of the above, no case for anticipatory bail is made out. Accordingly, the present application is dismissed and disposed of.

10. Needless to state, nothing mentioned hereinabove is an opinion on the This is a digitally signed order.

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11. Pending application(s), if any, also stand disposed of.

12. Order be uploaded on the website of this Court forthwith.

AMIT SHARMA, J MAY 01, 2024/bsr Click here to check corrigendum, if any This is a digitally signed order.

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