

Rita @ Laxmi @ Nisha vs The State (Nct Of Delhi) on 9 March, 2022

Author: Chandra Dhari Singh

Bench: Chandra Dhari Singh

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IN THE HIGH COURT OF DELHI AT NEW DELHI

BAIL APPLN. 4059/2021

RITA @ LAXMI @ NISHA

Through: Mr. Mohd. Asif, Advocate

versus

THE STATE (NCT OF DELHI)

..... Respondent

Through: Mr. Panna Lal Sharma, APP with S

Anuj Yadav, P.S. Dwarka, North.

CORAM:

HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

ORDER

% 09.03.2022

1. The instant bail application under Section 439 of the Code of Criminal Procedure, 1973 (hereinafter "Cr.P.C.") has been filed on behalf of the petitioner seeking regular bail in FIR bearing No. 86/2018 registered at Police Station Dwarka North, New Delhi. The accused has been chargesheeted for offences punishable under Sections 370/370A/344/366A/34 of the Indian Penal Code, 1860 (hereinafter "IPC") read with Sections 6/17 of Protection of Children from Sexual Offences Act, 2012 (hereinafter "POCSO Act") and Section 5 of The Immoral Traffic (Prevention) Act, 1956.

2. As per the prosecution case, on 25th March 2018 at about 4 PM the complainant's daughter went out from the house along with dog but she did not come back. The complainant tried to search her out and enquired from the friends but could not find her. The instant FIR was lodged on the basis of complaint filed by her. On 26th March 2018, at about 1.36 a.m. the son of the complainant made a PCR call regarding the kidnapping of his sister and on the same day the police recovered the victim 'X'. Police got her medical examination conducted and thereafter the Investigating Officer of the case got her statement recorded under Section 164 of the Cr.P.C. In the said statement the victim has corroborated the contentions made in the FIR. On 2nd May 2018, victim „X“ got registered an FIR bearing No. 85/2018 at Police Station Baba Haridas Nagar, Delhi for offences punishable under Section 363/376 D IPC and 6 POCSO Act.

3. It is submitted by learned counsel that the petitioner is an innocent lady and has not committed

any offence as alleged in the FIR. It is also informed that co-accused Mamta @ Jugandari has already been enlarged on bail by the Trial Court vide order dated 11 th December 2018 and on the ground of parity, it is prayed that the petitioner may also be released on bail. All private witnesses, i.e. PW-1 Prosecutrix, PW-2 complainant and PW-3 brother of the victim have already been examined and only police personnel have to be examined. After completion of investigation in the matter, chargesheet had been filed whereupon learned Trial Court framed charges against the petitioner for offences under Sections 6/17 of POCSO Act and Sections 370(4)/370A/344/34 of IPC and therefore, there is no requirement of her custodial interrogation.

4. Learned counsel informed this Court that on two occasions i.e. from 22nd November 2018 to 19th December 2018 and from 18th June 2020 to 27th March 2021, the petitioner was released on interim bail and surrendered on time. On instructions, learned counsel undertakes that the petitioner shall abide by any condition imposed by this Court while granting bail. There are no criminal antecedents of the petitioner, who is languishing in judicial custody since 27th April 2018.

5. Per Contra, Ms. Kusum Dhalla, learned APP for State vehemently opposed the bail application and submitted that the petitioner is involved in heinous crime of human trafficking and prostitution. She has committed very serious offence and therefore is not entitled to the concession of bail by this Court. If released on the bail she might hamper the trial and influence the witnesses. Therefore, the petition is devoid of any merit and is liable to be dismissed. However, it is not contradicted by learned APP that there is no previous criminal history of the petitioner. After completion of investigation, chargesheet has been filed and charges have already been framed by the Court concerned.

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

7. I have perused the FIR and statement recorded under Section 164 of Cr.P.C. There is no dispute to the fact that investigation has been completed, chargesheet has been filed and trial has commenced. Three important witnesses i.e. PW-1 prosecutrix, PW-2 complainant and PW-3 brother of the prosecutrix have already been examined and therefore there is no chance of tutoring/influencing the witnesses. There is no previous criminal history of the petitioner.

8. The medical report of the petitioner alongwith latest nominal roll has been placed on record. After perusal of the medical report, it is found that the medical condition of the petitioner is satisfactory. As per the nominal roll, the petitioner has already spent 2 years and 11 months in custody.

9. Keeping in view the contentions and the arguments advanced by the learned counsel for the parties, the clean antecedents and the period for which the petitioner has already been in jail, this Court is inclined to allow the instant petition seeking regular bail. It is accordingly directed that the petitioner be released on bail on her furnishing personal bond in the sum of Rs.50,000/- (Rupees Fifty Thousand only) with two sureties of like amount to the satisfaction of the Jail Superintendent/Trial Court subject to the conditions as follows:-

(a) she shall under no circumstances leave India without prior permission of the Court concerned;

(b) she shall appear before the Court concerned as and when required;

(c) she shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case;

(d) she shall provide her mobile number(s) and keep it operational at all times;

(e) she shall commit no offence whatsoever during the period he is on bail; and

(f) in case of change of residential address and/or mobile number, the same shall be intimated to the Court concerned by way of an affidavit.

10. With the aforesaid directions, the petition stands disposed of.

11. It is made clear and goes without saying that any observations touching merits of the case are purely for the purpose of deciding the question of grant of bail by this Court and shall not be construed as an expression of final observation in the proceedings pending before Trial Court.

12. Copy of this order be sent to Jail Superintendent for compliance.

CHANDRA DHARI SINGH, J MARCH 9, 2022 Aj/@k