

Safi Mohd @ Guddu Ansari vs State (Gnct Of Delhi) on 4 May, 2022

Author: Chandra Dhari Singh

Bench: Chandra Dhari Singh

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IN THE HIGH COURT OF DELHI AT NEW DELHI

BAIL APPLN. 3896/2021

SAFI MOHD @ GUDDU ANSARI

Through: Mr. Rajat Katyal, Ad ..

versus

STATE (GNCT OF DELHI)

Through: Ms. Kusum Dhalla, AP ..

Mr. Hemant Singh, St

DHCLSC for complain

CORAM:

HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

ORDER

% 04.05.2022

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 applicant seeking grant of bail in FIR bearing No. 0188/2019 registered at Police Station Aman Vihar for offences punishable under Sections 363/366/376 of the Indian Penal Code, 1860 (hereinafter "IPC") and Section 6 of Protection of Children from Sexual Offences Act, 2012.

2. Learned counsel for the applicant submitted that the applicant is languishing in jail for 3 years. It is argued that there are material contradictions in the statement of the prosecutrix as well the deposition of other witnesses, i.e., complainant PW-2, father, and PW-3, mother. All prosecution witnesses have been examined and there is no requirement of keeping the applicant in judicial custody. The applicant has clean antecedents and there is no previous criminal history. It is further submitted that applicant is a married person having one girl child. On instruction, learned counsel undertakes that the applicant shall abide by any condition imposed by this Court while granting bail. Hence, it is prayed that the applicant may be released on bail.

3. Per Contra, Ms. Kusum Dhalla, learned APP for State vehemently opposed the bail application and submitted that the present applicant is charged for heinous crime of committing rape on minor girl. It is also submitted that there is no force in the argument of the learned counsel that there are material contradictions in the deposition of the prosecution witnesses as PW-1, PW-2 and PW-3 have supported the case of the prosecution and therefore, the applicant is not entitled to the

concession of bail and if released on the bail he may influence the trial. However, it is fairly conceded on behalf of the State that there is no previous criminal history of the applicant.

4. Mr. Hemant Sharma, learned counsel appearing on behalf of the complainant also vehemently opposed the bail application and submitted that the applicant is involved in heinous crime and after perusing the depositions of the prosecution witnesses, it is revealed that there are high chances of the conviction of the applicant. It is further submitted that the trial is going to be concluded in near future as all prosecution witnesses have already been examined. All prosecution witnesses have supported the prosecution version, therefore, there is no force in the argument of learned counsel for the applicant that there are material contradictions in the statement of the witnesses. It is therefore, prayed that the instant bail is devoid of any merit and same is liable to be dismissed.

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

6. I have perused the contentions made in the application, FIR as well as the statement of the prosecutrix, PW-2, PW-3 as well as testimony of PW-4. The doctors opined as follows:-

"The patient was examined by me and on her external examination, no external injury was found on the person of patient. On internal examination, no injury was found."

I have also perused the FSL report which is annexed as Annexure P-11. There is no previous criminal history of the applicant and he is a first time offender. It is an admitted fact that all prosecution witnesses have already been examined. The applicant is languishing in jail for 3 years.

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

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

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

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

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

(e) he 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.

8. Accordingly, the bail application stands disposed of.

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

10. It is made clear 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 construed as an expression of final observation in the proceedings pending before Trial Court.

CHANDRA DHARI SINGH, J MAY 4, 2022 Aj/@k