

(2023) 07 DEL CK 0225

In the Delhi High Court

Case No : Bail Application No. 1711 Of 2023

Manoj Kumar

APPELLANT

Vs

State Nct Of Delhi

RESPONDENT

Date of Decision : 25-07-2023

Acts Referred:

Indian Penal Code, 1860 — Section 354A, 363
Protection of Children from Sexual Offences Act, 2012 — Section 10
Code Of Criminal Procedure, 1973 — Section 164

Citation : (2023) 07 DEL CK 0225

Hon'ble Judges : Dinesh Kumar Sharma, J

Bench : Single Bench

Advocate : Ashok Kumar, Amit Sahni

Final Decision : Disposed Of

Judgement

Dinesh Kumar Sharma, J

1. The present application has been filed seeking grant of bail in case FIR No. 377/2022 under Sections 363/354A IPC read with Section 10 of POSCO Act registered at PS Govind Puri, New Delhi.
2. Learned counsel for the petitioner submits that the present FIR has been lodged on account of the previous enmity between the families. Learned counsel for the petitioner submits that as per the MLC on record there was no penetration and that except legs, no other part of the prosecutrix/victim was touched.
3. Learned counsel for the petitioner submits that the accused is in custody since 30.06.2022 and since the charge-sheet has already been filed and the trial may take a long time therefore, the petitioner may be admitted to bail.
4. On the last date, notice was issued to the prosecutrix/victim as per office report, victim has duly been served through her guardian. However, none is present on her behalf.

5. Learned APP for the state has vehemently opposed the bail application on the ground that the victim was only 6 years old. Learned APP for the state submits that even it is not the case of the prosecution that it was a case of penetration. Learned APP submits that in view of the age of the prosecutrix, the petitioner may not be admitted to bail.

6. I have considered the submissions.

7. The court always faces a moral dilemma in such cases while considering the application for bail. The allegations on the face of it are serious in nature. However, on the basis of the FIR, the only allegation against the accused is that the grandmother of the prosecutrix found the victim and the accused with their payjama and trouser, respectively, down while the accused was sitting on his knees. Thereafter, in the statement under Section 164 Cr.P.C. there are allegations of touching of the accused's mouth to the genitals of prosecutrix. The allegations are really serious in nature. This court is of the view that it cannot examine the probative value of the witnesses at this stage. The same are yet to be appreciated by the learned Trial Court.

8. The accused is around 35 years of age. Without going into the merits of the case and taking into account the peculiar facts and circumstances, the petitioner is admitted to court bail on furnishing a personal bond of Rs. 15,000/- with one surety of the like amount to the satisfaction of learned Trial Court subject to the following conditions:

(a) Petitioner shall not threaten, intimidate or contact the prosecution witnesses nor shall even visit the locality where the victim or her family are residing.

(b) The petitioner shall report to the IO on every Thursday at 05:00 PM till the conclusion of the trial.

(c) The petitioner shall disclose his mobile number and residential address to the court and shall intimate in case there is any change in the residential address.

9. The learned trial court may also impose any further condition as suitable for procuring the presence of the accused during the trial.

10. The petition stands disposed of.

11. Copy to be sent to the jail superintendent concerned.