



\$~17

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.A. 490/2019**
NOOR ISLAM Appellant

Through: Mr. U A Khan(Amicus Curiae) with
Mr. Shahrukh Khan ad Mr. Tushar
Upadhyaya, Advocates.

versus

THE STATE (GOVT. OF NCT) OF DELHI Respondent
Through: Ms. Manjeet Arya, APP with Insp.
Kishore Kumar.

CORAM:
HON'BLE MR. JUSTICE SURESH KUMAR KAIT
HON'BLE MR. JUSTICE MANOJ JAIN

ORDER
07.05.2024

%
CRL.M.(BAIL) 769/2024

1. Present petition has been filed seeking following prayer:-
a. Suspend the sentence of the appellant and to release the appellant on bail during the pendency of the present criminal appeal in the case F.I.R. No. 171/16, registered under section 363/376(2) (G)/506 IPC & 06 POCSO Act, P.S. South Rohini.
2. Notice issued.
3. The learned APP for State accepts notice and has opposed the present application by submitting that the period undergone by the applicant should not be taken into consideration as there are serious allegations against the appellant and there are chances of his absconding and, therefore, the present application deserves to be dismissed.

CRL.A. 490/2019

1



4. It has been contended by Id. Amicus Curiae that the learned Trial Court has not appreciated the testimony of the vital witnesses in its true perspective and has, while convicting the appellant, ignored vital facts of the present case. It is argued that the appellant and the victim were already known to each other and used to have regular telephonic conversation. It is also not disputed that the prosecutrix had gone along with the appellant to West Bengal and other places of her own free will and consent and the same is established from the testimony on record. Appellant, during his deposition before the learned Trial Court as a defence witness U/s 315 Cr.P.C. submitted audio containing conversation between them and prosecutrix admitted her voice and such conversation taken place between her and the appellant. Such audio clearly shows that it is not a case of forceful abduction or rape as observed by the learned Trial Court.

5. Learned counsel for applicant/appellant submits that learned Trial Court has also not appreciated the material on record with regard to the age of the victim and her exact age has not been proved as there is nothing to show as to on what basis her age was recorded in school.

6. As per nominal roll dated 03.03.2023, the appellant has already undergone incarceration for a period of almost 07 years and 05 months as on 03.05.2024. There is no other case pending against him and his conduct in jail is reported to be satisfactory.

7. In view of the above without going into the merits of the case and the fact that the present appeal is of the year 2019 and also that there are old appeals pending before us and the listing of the present appeal is not likely in near future, we hereby suspend the sentence of the appellant during the pendency of the appeal. The appellant be released on bail, on his furnishing



personal bond of Rs.10,000/- with one surety of like amount to the satisfaction of the Trial Court concerned.

8. Copy of order be transmitted to the learned Trial Court and to the concerned jail authorities for due compliance.

9. Application stands disposed of.

SURESH KUMAR KAIT, J

MANOJ JAIN, J

MAY 7, 2024/sw



This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above.

The Order is downloaded from the DHC Server on 08/05/2024 at 12:36:43