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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **BAIL APPLN. 2286/2022 & CRL.M.A. 15991/2022**

KAJAL Petitioner

Through: Mr.Rakesh Kr. Pant, Advocate.

versus

STATE (NCT OF DELHI) Respondent

Through: Mr.Laksh Khanna, APP for State with
SI Jarnail Singh, PS Rajouri Garden.

CORAM:

HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA

ORDER

% **18.08.2022**

1. An application has been preferred on behalf of the petitioner under Section 439 Cr.P.C. read with Section 482 Cr.P.C. for grant of interim bail for a period of six months in FIR No. 1088/2021, under Sections 363/367/368/326/307/506/34/120B IPC, registered at Police Station Rajouri Garden.

2. The present FIR was registered on the statement of injured/victim Raman who had performed marriage with Menka (another victim/injured) against the consent of her parents on 21.12.2021. However, family members of the wife of the complainant abducted the victim and his wife on 22.12.2021 and after brutally beating him up, his private part was amputated with an axe and he also received stab injuries. Further, the complainant was thrown in a drain from where he was rescued by his brother and was admitted in AIIMS Trauma Centre

3. Learned APP for the State vehemently opposes the interim bail

application and submits that 16 members of the same family have been arrested while 3 of them are still absconding and 2 other family members have also been chargesheeted without arrest. It is also submitted that the women of the house had played an active role in the commitment of crime. Further, the wife of the complainant Menka was also wrongfully confined from 22.12.2021 to 06.03.2022 and she was recovered from the custody of the present petitioner along with other accused.

It is also urged that pregnancy of a female under-trial prisoner itself is not a ground on the basis of which an accused involved in a heinous offence, can be enlarged on bail, where there is a high security risk to the lives and safety of the victims. The victims are also stated to have been provided 24 hours security as there is a serious threat to their lives. It is also pointed out that there is no complication in the pregnancy of the petitioner, though it is admitted that the expected date of delivery of the petitioner is 25.08.2022.

4. I have given considered thought to the contentions raised. Medical report has also been received from the Superintendent Jail. It has been informed that the delivery facilities are not available in Central Jail No.6 Dispensary and the patient is being referred to Deen Dayal Upadhyay Hospital for delivery.

5. The Court is required to give due weightage to the aspects like nature and gravity of offence and the impact of such an offence committed, on the society for consideration of bail. However, pregnancy of a woman is a special circumstance which needs to be appreciated, as giving birth to a child while in custody, would not only be a trauma to the mother but also create an everlasting adverse impact on the child, whenever questioned about his birth. Every pregnant female deserves the dignity enshrined under

Article 21 of the Constitution of India during motherhood. The Court is expected to take note of interest of a child, who is not expected to be exposed to the prisons, until and unless there is a grave danger in releasing the petitioner on bail. Even the proviso to Section 437(1) Cr.P.C. also provides that the condition of not releasing a person on bail charged with an offence punishable with death or imprisonment for life shall not be applicable, if such person is under the age of sixteen years or is a **woman** or sick or infirm subject to such conditions as may be imposed.

6. It may also be appropriate to notice that even Rule 1459 of Delhi Prison Rules 2018 provides that as far as possible (provided the prisoner has a suitable option) arrangements for temporary release (or suspension of sentence in the case of a casual offender) will be made to enable a prisoner to deliver child in a hospital outside the prison. Only when there is high security risk in the case of any particular woman prisoner, the facility to deliver child outside the prison shall be denied.

7. In view of above and having regard to the entirety of facts and circumstances available on record, since the petitioner is a pregnant woman and is expecting the delivery, she deserves to be enlarged on interim bail for a period of three months from the date of release on furnishing a personal bond in the sum of Rs.20,000/- (Rupees Twenty Thousand Only) with one surety in the like amount to the satisfaction of the learned Trial Court/MM/Duty MM. Further, during the period of interim bail, the petitioner shall not directly or indirectly threaten, influence or interact with the prosecution witnesses.

The bail application is accordingly disposed of.

A copy of this order be forwarded to the learned Trial Court and Superintendent Jail for information and compliance.

AUGUST 18, 2022/R

ANOOP KUMAR MENDIRATTA, J.