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

+ BAIL APPLN. 4129/2021

JAVED

..... Petitioner

Through: Mr. Sharan Mehta, Advocate

versus

STATE NCT OF DELHI

..... Respondent

Through: Mr. Y.S. Chauhan, APP for State with
ASI Raghuraj Singh, PS Sangam
Vihar, New Delhi

Ms. Gunjan Sinha Jain, Adv. for
complainant

CORAM:

HON'BLE MR. JUSTICE JASMEET SINGH

ORDER

23.11.2022

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This is an application seeking bail in FIR No. 199/2019 under Sections 363IPC. On the basis of the statement made under Section 164 Cr.P.C, sections 366/376 IPC and section 6 POCSO Act were added.

As per the FIR, the father of the minor girl registered an FIR on the ground that his daughter was missing from 10.06.2019. Subsequently, the status report has been filed wherein it has been stated that the missing girl was traced and rescued from District Sambhal, Uttar Pradesh and was brought back. She was found in the company of the applicant.

The statement of the prosecutrix has been recorded under Section 164 Cr.P.C., wherein she has stated that the applicant is her boyfriend and she stayed with him for about one and a half month. She further states that she established physical relationships with the applicant with her consent. It is further state that she wants to stay with the applicant.

Mr. Mehta, learned counsel states that in view of the statement made

under Section 164 Cr.P.C, the applicant must be granted bail. He further states that he has been in custody since 2019 and charge-sheet has already been filed.

In the present case, I am of the view that the applicant was merely 16 years from the date of incident. The applicant was 23 years old and was already married. It is stated by Ms. Jain, learned counsel appearing for the complainant that she has interacted with the complainant and the complainant has informed her that it was the applicant who took her to the office of SDM and got her date of birth changed in the Aadhar Card from the year 2002 to 05.03.2000 only for the purpose of showing that the date of the establishing physical relationship she was not a minor.

The conduct of the applicant of getting the date of birth changed in the Aadhar card of the complainant is a serious offence. It seems that the applicant wanted to take advantage by getting the Date of Birth on the Aadhar Card changed so that when the applicant established physical relationship with the complainant, she was not a minor.

The consent of the minor at the age of 16 years, specially, when the applicant was 23 years old and already married also disentitles the applicant for grant of bail. Consent of a minor is no consent in the eyes of law.

The observations made in this order are only for the purpose of deciding the bail application and shall not affect the trial and the final outcome of the case.

With these observations, the bail application is dismissed.

JASMEET SINGH, J

NOVEMBER 23, 2022/rhc

[Click here to check corrigendum, if any](#)