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

+ **CRL.M.C. 1162/2016**

**ANITA (MINOR REPRESENTED BY: NATURAL
GUARDINA/FATHER HARI RAM**

.... Petitioner

Represented by: **Mr. Sameer Chandra with Mr.
H.R. Arya, Advs.**

versus

THE STATE (NCT OF DELHI) & ANR

..... Respondent

Represented by: **Mr. Hirein Sharma, APP with
W/SI Sunita Singh, PS CAW
cell.
Mr. Gaurav Sahdev, Adv. for
R-2.**

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

**ORDER
19.07.2016**

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Respondent No.2 who is the paternal uncle of the petitioner was granted regular bail by the learned Sessions Court in case FIR No.50/2016 under Sections 4 read with Section 18 of the Protection of Children from Sexual Offences Act, 2012 (in short 'POCSO Act') registered at PS Palam Village. By this petition, the petitioner seeks cancellation of the bail granted to respondent no.2.

The contention raised by learned counsel for the petitioner is that despite anticipatory bail application having been dismissed, learned Trial Court granted bail to the respondent on his surrender. Considering the gravity and seriousness of the offence, the learned Trial Court ought not to

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have granted regular bail to Respondent No.2. The parents of petitioner were not apprised about the arrest and date and time when Respondent No.2 was produced in Court and thus they could not oppose the bail application. It is also stated that Section 29 POCSO Act mandates that unless the contrary is proved, a presumption is required to be raised that the accused has committed the crime alleged. It is alleged that respondent no.2 and his family members are extending threat after release of respondent No.2 and thus the bail is required to be cancelled on this ground itself.

Learned APP has placed on record the status report which narrates the allegations in the FIR. On instructions, learned APP submits that complaint of threat filed by the petitioner's father copy whereof has been filed as Annexure P-9 at page 60 of the paper book was inquired into and has been filed.

Learned counsel for Respondent No.2 submits that the abovenoted FIR is a false case and lodged against respondent No.2 only because the parents of the petitioner wanted the respondent no.2 to relinquish his share in the ancestral property which is a 25 sq.yds. plot in which all the four brothers are residing.

Heard learned counsel for the parties.

The allegations in the FIR are that while the prosecutrix was coming down after taking bath, respondent No.2 her paternal uncle dragged her in the room, removed his pant and laid over her. When he was trying to commit rape, she pushed him, opened the bolt, went downstairs and called her mother upstairs.

Learned Trial Court while granting regular bail noted that in the
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medical report, there were no marks of injuries and on verification, it was found out that there was property dispute between the parents of the petitioner and respondent No.2 and at the time of incident, other family members were also in the house.

Consideration for grant of anticipatory bail and regular bail are different. The petitioner was denied anticipatory bail however he was admitted on bail when he surrendered before the Court.

Considering the fact that the respondent No.2 was a government servant and there was property dispute, learned Trial Court granted regular bail to respondent No.2. The view taken by learned Additional Sessions Judge cannot be said to be perverse warranting interference.

As regards cancellation of bail on the ground that the wife of respondent No.2 was threatening the prosecutrix and her parents, complaint in this regard has already been filed as the same warranted no action. As the allegations of threat are not substantiated, I find no reason to cancel the bail granted to respondent No.2.

Petition is dismissed.

MUKTA GUPTA, J.

JULY 19, 2016
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