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

+ **BAIL APPLN. 909/2016**

AMIT RATHORE @ JIWA RAM Petitioner

Represented by: **Mr. V.K. Jha, Advocate.**

versus

STATE (NCT OF DELHI) Respondent

Represented by: **Mr. Ashok K. Garg, APP for
the State with SI Ashok Kumar,
PS Patel Nagar.
Complainant in person.**

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

% **04.08.2016**

Crl. M.A. No.7696/2016 (early hearing)

Since the matter is listed for today for final hearing and is being heard, the application seeking early hearing has become infructuous and is dismissed as such.

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1. By this petition the petitioner seeks regular bail in case FIR No.264/2016 under Section 376 IPC and 6 of Protection of Children from Sexual Offences Act (in short 'POCSO Act') registered at PS Patel Nagar, Delhi.

2. Learned counsel for the petitioner submits that the petitioner and the complainant had got engaged. The relationships between the two were consensual in nature and the complainant was major as is evident from the

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date of birth certificate issued by the New Delhi Municipal Corporation. The charge sheet has already been filed and the petitioner is no more required for investigation. Moreover the complainant did not support the allegations in the statement recorded under Section 164 Cr.P.C.

3. Learned APP for the State on instructions from the Investigating Officer submits that in the FIR itself the complainant has stated that they were engaged whereafter the petitioner forcibly raped her however, when her statement under Section 164 Cr.P.C was recorded she stated that the relationship between the two were consensual.

4. On a specific query put with regard to the age of the prosecutrix, learned APP for the State fairly points out that though the school leaving certificate says that she was 17 years of age however, as per the birth certificate issued by NDMC the date of birth of the prosecutrix is 25th February, 1998 and her registration in birth's register was done immediately two days after her birth, that is, on 27th February, 1998.

5. Heard learned counsel for the parties.

6. Considering the fact that as per the birth certificate issued by NDMC which was got registered two days after the birth of the prosecutrix, that is, 27th February, 1998, she was a major at the time of alleged incident and in her statement under Section 164 Cr.P.C. she stated that the relationship was established between the petitioner and herself by her consent and the charge sheet has already been filed, I deem it fit to grant bail to the petitioner. It is, therefore, directed that the petitioner be released on his furnishing a personal bond in the sum of ₹25,000/- with one surety of the like amount, subject to the satisfaction of the learned Trial Court, further subject to the condition

that the petitioner will not leave the country without prior permission of the learned Trial Court.

7. Petition is disposed of.
8. Order dasti.

MUKTA GUPTA, J.

AUGUST 04, 2016
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