

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

+ Bail Application No.1265/2016

Date of Decision: 9th August, 2016

VIKAS @ VICKY

..... Petitioner

Through: Mr.Vinod Kumar Goyal and
Mr.Abhinav Singh, Advs.

versus

STATE

..... Respondents

Through Mr.Manjeet Arya, APP.

CORAM:
HON'BLE MR. JUSTICE P.S.TEJI

P.S.TEJI, J.

1. The present petition has been filed under Section 439 Cr.P.C. read with Section 482 Cr.P.C. for grant of regular bail to the petitioner in FIR No.134/2016 under Section 377/506 IPC read with Section 6 of POCSO Act registered at Police Station: Kalyan Puri, Delhi.

2. The case in the nutshell is that on 16.03.2016 a complaint was received at police station Kalyan Puri by one Smt.Savita w/o Om Prakash R/o: adjoining to Chuhare Wali Factory, Kichri Pur Village, Delhi, to the effect that she is residing at the above address with her family on rent from the last two months and doing private job and that

on the said date at about 3 P.M. her son Bablu aged 10 years had gone to lay at Gurudwara Khichripur where at around 4.30 P.M. the petitioner took her son and persuaded him of having a bath at pit near CNG Pump, Khichripur and on reaching there threatened her son to hold his penis in his mouth and thereafter her son under fear took his penis in mouth. Thereafter, the petitioner tried to loosen the pajama of her son when people who were standing by saw him, caught him and took him to the police station and thereafter immediately her son came home and told her the entire incident. The people who had caught hold of the petitioner reached Gurudwara Khichripur where the complainant also reached with her son and he identified the petitioner as the boy who had committed the wrong act with him. The son of the petitioner was thereafter taken for medical examination at LBS Hospital to the complainant objected. Based on the circumstances, a case under Section 377/506 IPC was registered.

3. After completion of investigation, charge sheet has been filed in the matter on 24.05.2016. The charges are yet to be framed. The petitioner's bail application has been rejected thrice by the court of session.

4. In support of his case, the learned counsel for the petitioner has taken the grounds that the allegations levelled in the complaint are false and fabricated; that the prosecution has filed the challan in support of its case and has relied upon the statement of the victim recorded under Section 164 Cr.P.C. where he has stated that no offence was committed against him and the whole story was concocted and there was no allegation made by him against the petitioner; that the complainant as well in her statement recorded under Section 164 Cr.P.C. has stated that no offence was committed against her son and the whole story was concocted and there was no allegation made by the complainant against the petitioner; that there was no other independent witnesses/ eye witnesses cited by the police in the list of witnesses to be examined in the present case; that there was no MLC done by the prosecution which clearly shows that no offence was committed by the petitioner; that three bail applications have been rejected by the learned ASJ without taking consideration the facts and circumstances of the case; that the petitioner is a young boy aged around 22 years and has been falsely implicated in the present case and is behind the bars since 17.03.2016.

5. Per contra, the learned APP for the State has vehemently opposed the bail application on the ground that the victim is yet to be examined; that this is a crime against the society and should be dealt with a heavy hand and that if released on bail, the petitioner is likely to tamper with evidence and influence the witnesses;

6. I have heard the learned counsel for the parties and perused the record. The petitioner while committing the wrong act with the victim was caught by the public and later the victim identified him as the person who had attempted to do the wrong act with him; the witnesses including the complainant and the victim are yet to be examined; there is strong apprehension that, if released on bail, the petitioner may influence the witnesses and tamper with evidence; that so far as the grounds raised by the petitioner for grant of bail to the petitioner are concerned, the same cannot be gone into at this stage.

7. In view of the gravity of offence and specific role attributed to the petitioner, this court is not inclined to grant bail to the petitioner.

8. Before parting with the order, this court would like to place it on record by way of abundant caution that whatever has been stated hereinabove in this order has been so said only for the purpose of

disposing of the prayer for bail made by the petitioner. Nothing contained in this order shall be construed as expression of a final opinion on any of the issues of fact or law arising for decision in the case which shall naturally have to be done by the Trial Court seized of the trial.

9. The present bail application is accordingly dismissed.

AUGUST 09, 2016
dm



(P.S.TEJI)
JUDGE