

\$~15

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

+ **BAIL APPLN. 1855/2016**

PRINCE

..... Petitioner

Represented by: Mr. Jai Subhash Thakur, Adv.

versus

STATE

..... Respondent

Represented by: Ms. Rajni Gupta, APP with SI
Uma Dutt, SI Sangita, PS
Mangolpuri.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

04.10.2016

%

1. By the present petition the petitioner seeks bail in case FIR No.741/2015 under Sections 363/376 IPC and Section 6 of the POCSO Act registered at PS Mangolpuri. Initially FIR No.741/2015 was registered under Section 363 IPC on the complaint of the mother of the prosecutrix alleging that her daughter aged 17 and a half years had been kidnapped by an unknown person. Later it was revealed that the prosecutrix had left her house on 8th April, 2015 with one Shahid with whom she married on 25th January, 2016 of her own will. When the statement of the prosecutrix was recorded she stated that she had left the house because of the petitioner who was her brother and was establishing physical relations forcibly by giving her beatings. Statement of the prosecutrix was recorded under Section 164 Cr.P.C. wherein she reiterated that her brother i.e. the petitioner committed rape on her twice and when she told her mother she did not take any action.

BAIL APPLN. 1855/2016

page 1 of 2

2. The prosecutrix has since been examined in Court and she did not support her earlier statements recorded under Section 161 and 164 Cr.P.C. she deposed that those statements were made by her under duress, pressure and threat of Shahid Khan. Though she stated that she did not tell true facts to the doctor on the pressure of the investigating officer but in fact the investigating officer never accompanied the prosecutrix when her MLC was prepared. Further in cross-examination by the learned APP she admitted that she had stated before the learned Metropolitan Magistrate that her brother used to misbehave with her and committed rape twice, however she did not want any action against her brother. She also admitted that she had stated before the learned MM that fed up with the act of her brother she left the home on 8th April, 2015 and secretly married Shahid. She further stated that she had only one brother and she and her family members want that he should be released from the jail and thus for this reason she was not saying anything against him.

3. Considering the fact that the prosecutrix has changed her statement in the Court under duress and has admitted making the statement before the learned Metropolitan Magistrate under Section 164 Cr.P.C., at this stage I find no reason to release the petitioner on bail.

4. Petition is dismissed.

MUKTA GUPTA, J.

OCTOBER 04, 2016

‘ga’

BAIL APPLN. 1855/2016

page 2 of 2