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

+ **BAIL APPLN. 1743/2016**

**PARVEEN KUMAR**

..... Petitioner

Through: Mr. Manish Paliwal, Advocate.

versus

**STATE OF NCT, DELHI**

..... Respondent

Through: Ms. Anita Abraham, APP for the  
State.

**CORAM:**

**HON'BLE MR. JUSTICE VIPIN SANGHI**

**ORDER**  
**26.08.2016**

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**CrI.M.A. No. 13151/2016**

Exemption allowed, subject to all just exceptions.

The application stands disposed of.

**BAIL APPLN. 1743/2016**

The petitioner has preferred the present bail application under Section 439 Cr.P.C. The petitioner is accused of the offence under Section 377 IPC and Sections 4 and 6 of the Protection of Children from Sexual Offences (POSCO) Act in case FIR No.281/2016. The charge-sheet stands filed and the matter is now fixed before the Trial Court on 08.09.2016 on the consideration of charge.

As per the allegation contained in the charge-sheet, on 10.03.2016, the victim identified the petitioner accused. The petitioner has also been identified by the eye-witness Sandeep Narwani who stated that on 23<sup>rd</sup> February, 2016 and 27<sup>th</sup> February, 2016, he was at the gate of Tilak Nagar Metro Station when he saw the petitioner taking the boys in the closed stairs located behind the restaurant. He saw through the net adjacent to the gate that the accused was removing the clothes of the boy, on which he raised the alarm and got opened the door. He learnt the name of the accused from the Restaurant Manager. This witness contacted the Child Helpline staff and complained about the incident. On 03.03.2016, this witness again contacted the member of the Child Helpline team. The victim is claimed to have informed a member of the Child Helpline team Kavita that the petitioner had done unnatural act with him.

The submission of learned counsel for the petitioner is that the CCTV footage does not suggest that the petitioner took the child for committing any offence. He has sought to place reliance on the photographs taken from the said CCTV footage in this respect. He has also referred to the e-mail communication sent by the so-called eye-witness Sandeep Narwani on 02.03.2016 to Khushbu Jain of the Child Helpline team, wherein he had only stated that the petitioner removed the shirt of the child and nothing more.

On the other hand, the learned APP points out that the child in his statement recorded under Section 164 Cr.P.C. has implicated the petitioner. Learned APP also relies on the statement of the eye-witness as well as the e-mails sent to the Child Helpline.

Learned counsel for the petitioner has submitted that the statement of the child was not recorded under Sections 25 & 26 of the POSCO Act.

These aspects will be considered by the Trial Court at the appropriate stage. The child is about 10 years old. He is a poor vagabond. In these circumstances, it would not be advisable to release the petitioner till the evidence of the material witnesses, including the victim are recorded by the Trial Court.

Dismissed.

**VIPIN SANGHI, J**

**AUGUST 26, 2016**

*B.S. Rohella*