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

+ **BAIL APPLN. 2216/2016**

ANISH KUMAR

..... Petitioner

Represented by: Mr. Akhilender Singh, Advocate.

versus

STATE (NCT OF DELHI)

..... Respondent

Represented by: Mr. Hirein Sharma, APP for the State
with SI Ajay Kumar, PS Khyala.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

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29.11.2016

1. By the present application, the petitioner seeks regular bail in case FIR No.371/2015, under Section 363/376-D/328/506 IPC read with Section 6 of the Protection of Children from Sexual Offences Act (in short 'POCSO') registered at Police Station Khyala.

2. The above noted FIR was registered on the complaint of the father of the prosecutrix, who alleged that his daughter was missing since 8 pm in the night from 10th June, 2015. Later on, on 13th June, 2015, the complainant along with his wife and the prosecutrix came to the police station and her statement was recorded under Section 161 Cr.P.C. followed by one under Section 164 Cr.P.C. on 14th June, 2015. In her statement under Section 164 Cr.P.C., the prosecutrix stated that she went to her aunt's house on 10th June, 2015 without

informing anyone due to the quarrel with her mother. On 13th June, 2015, she came back to home. Later, a PCR call was received on 15th June, 2015 from aunt of the prosecutrix alleging that her niece had been raped. In her subsequent statement, the prosecutrix alleged that she met a boy named Deepak, who took her to an unknown place on the pretext of getting her a job. When she was taken to the factory, there were two other boys present. Deepak mixed up something in the drink, that is, water due to which she felt sedated and dizzy. She could only recall that her clothes had been removed and she has been sexually assaulted. She reiterated these allegations in her statement under Section 164 Cr.P.C on 20th June, 2015. The prosecutrix has been examined before the court on 10th August, 2016 and 17th September, 2016 as PW-1. In her examination-in-chief, she did not support the prosecution case. Even on confrontation by the learned APP, she has given two sets of statements; one on 10th August, 2016 and the other on 17th September, 2016.

3. Without going into the veracity of the different statements given by the prosecutrix, sufficient it is to note that the statement of the prosecutrix has been recorded before the learned trial court. The material witness having been examined and since the petitioner is in custody for more than 17 months and the main role is alleged to Deepak, this court finds it fit to grant bail to the petitioner.

4. It is, therefore, directed that the petitioner be released on bail on his furnishing a personal bond in the sum of ₹25,000/- with one surety of the like amount to the satisfaction of the trial court; further subject

to the condition that he will not leave the country without prior permission of the court.

5. The bail application stands disposed of.

6. *Dasti.*

MUKTA GUPTA, J.

NOVEMBER 29, 2016
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