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

+ **BAIL APPLN. 2116/2016**

SURAJ @ MANTU

..... Petitioner

Through: **Mr. Arvind Kumar Singh, Advocate.**

versus

STATE

..... Respondent

Through: **Ms. Anita Abraham, APP along with
SI Manisha Sharma, PS-Aman Vihar,
for the State.**

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

ORDER

17.10.2016

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The petitioner has preferred the present bail application under Section 439 Cr.P.C. to seek regular bail in case FIR No.573/2016 under Section 376/363 IPC and Section 6 of the POCSO Act. The petitioner has been in judicial custody since 01.06.2016.

As per the case of the prosecution, the minor victim was sleeping along with her family members outside her house. At about 2:30 a.m. on 28.05.2016, the victim came weeping due to which her family members woke up. On asking the reason for her weeping, she stated that she has been taken away and slapped by a man and when she raised alarm, he fled. In the morning, her underwear was noticed by the mother and on asking by the mother, the victim disclosed about the offence committed upon her by the man. The aforesaid FIR came to be registered.

The submission of learned counsel for the petitioner is that the prosecution is seeking to place reliance on a CCTV footage. However, in

respect of the said CCTV footage, the learned ASJ has already observed in his order dated 03.09.2016 that the description of the person shown in the clip hardly matches with the description of the accused. The said order records that the TIP of the accused was also not got conducted and the certificate under Section 65B had not been taken from the person whose DVR was seized in the matter. The charge-sheet has been filed. The submission of learned counsel for the petitioner is that the victim has not supported the case of the prosecution while recording her statement under Section 164 Cr.P.C.

I have heard learned counsel for the petitioner as well as perused the record placed before the Court. The learned ASJ while dismissing the petitioner's bail application vide order dated 05.09.2015 has taken note of the fact that the victim is about 8 ½ years of age and that the medical and forensic examination supports the case of the prosecution. In this regard, reference may be made to the report prepared by the Forensic Science Laboratory, Government of National Capital Territory of Delhi dated 01.08.2016, which in its conclusion, inter alia, states that the DNA profiling performed on the underwear of the victim matches with that of the underwear of the accused.

Looking to the nature & seriousness of the offence and the fact that the prosecution evidence is yet to be recorded, I am not inclined to grant bail to the petitioner at this stage.

Dismissed.

VIPIN SANGHI, J

OCTOBER 17, 2016

B.S. Rohella