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

+ **BAIL APPLN. 2211/2016 & CrI.M.B. 16783/2016**

BIRENDER KUMAR BHAGAT

..... Petitioner

Represented by: Mr. Anunaya Mehta, Adv.

versus

STATE

..... Respondent

Represented by: Mr. Amit Ahlawat, APP with
DCP Ombir Singh Bishnoi,
ACP Gaurav Gupta,
Kalyanpuri, SHO C.R. Meena,
SI Pinki Rana, PS New Ashok
Nagar.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

16.12.2016

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By the present petition the petitioner seeks bail in case FIR No. 5/2016 under Sections 363/376/109/34 IPC & Section 6 of the Protection of Children from Sexual Offences Act (in short POCSO) registered at PS New Ashok Nagar.

The FIR was initially registered under Section 363 IPC wherein the complainant alleged that his daughter aged 14 years had been kidnapped by one Milan. On 18th April, 2016 the complainant came to the Police Station along with his daughter who was medically examined. In the MLC the victim stated that she went away with a guy named Milan on 5th January,

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2016 without informing anyone and was found by the Police near Hawda on 16th April, 2016. She gave history of physical and sexual abuse by Milan. However she was not in a position to reveal all the facts. The statement of the prosecutrix was sought to be recorded under Section 164 Cr.P.C. however the same was not recorded and the Ld. MM observed that the prosecutrix was in need of proper counselling. Thereafter the prosecutrix was counselled where she stated that Milan and his friend Vinay used to sexually abuse her. On 21st April, 2016 when the statement of the prosecutrix was recorded under Section 164 Cr.P.C. she for the first time took the name of the petitioner that he along with Milan raped her. According to the prosecutrix she was taken to Pilibhit on a bike by the petitioner and Milan and thereafter to Kolkata in a train where she was kept.

The petitioner in the present petition took the plea that he had been attending his work place regularly and thus this Court called for a status report. Though in the attendance sheet there were some over-writings found but as per the record from January to April, the petitioner was on leave on 3, 10, 12, 22 & 23 in January 2016 and from 12 Feb till 03 March 2016, and on 15, 22 & 24 in March 2016 and 1, 8 & 31 in April, 2016. Thus he attended duties on the remaining dates.

Considering the fact that the petitioner was not on continuous leave from 1st January to 31st April, 2016 and that the main accused Milan against whom the prosecutrix consistently levelled allegations has still not been arrested and proceedings under Section 82/83 have been initiated against him, this Court deems it fit to grant bail to the petitioner. It is therefore directed that the petitioner be released on bail on his furnishing a personal

bond in the sum of ₹25,000/- with two sureties of the like amount subject to the satisfaction of the learned Trial Court, further subject to the condition that he will not leave the country without the prior permission of the Court concerned.

Petition and application are disposed of. Order dasti.

MUKTA GUPTA, J.

DECEMBER 16, 2016
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