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

+ BAIL APPLN. 2429/2016 and Crl.M.(Bail) No.2104/2016
SHRIPAL SHARMA

..... Petitioner

Through: Mr.Prem Kumar, Advocate.

versus

STATE OF NCT OF DELHI

..... Respondent

Through: Ms.Kusum Dhalla, APP for State with
W/SI Satyawati, P.S. Khyala, Delhi.

CORAM:

HON'BLE MR. JUSTICE I.S.MEHTA

ORDER

14.12.2016

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Case taken up today, as 12th December, 2016 was declared a holiday.

This is an application under Section 439 read with Section 482 Cr.P.C. filed on behalf of the petitioner Shripal Sharma for grant of bail in case FIR No.484/2015, under Sections 363/366/328/34 IPC read with Section 8 of POCSO Act, registered at Police Station Khyala, Delhi.

Learned counsel for the petitioner has submitted that the petitioner is an innocent person having no nexus with the allegations made in the FIR bearing No.484/2015, under Sections 363/366/328/34 IPC read with Section 8 of the POCSO Act, registered at Police Station Khyala, Delhi. Counsel further submits that the complainant is a minor and further submitted that as per the statement of the prosecutrix recorded before the Court below, the complainant/victim is of 17 years of age. Counsel further submits that the

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petitioner is in judicial custody since 6th September, 2015. Learned counsel for the petitioner has further submitted that during her cross-examination, the prosecutrix has admitted that she developed friendly relations with Sanjay, brother of the present petitioner. Counsel further submits that the said Sanjay is on regular bail. Counsel further submits that the aforesaid admission of the prosecutrix is at page 84 of the paper book, which is reproduced as under:-

".....Sanjay developed friendly relationship with me and we used to talk through mobile phone of my father with the JCL on his mobile phone.....".

Learned counsel for the petitioner has further submitted that there are love letters written by the prosecutrix to the aforesaid Sanjay, brother of the present petitioner. Counsel further submits that since the petitioner is no longer required for further investigation and he is in judicial custody since 06.09.2015 and the victim/prosecutrix has already been examined in the Court and further trial of the case is likely to take time, no purpose would be served if he is kept further in judicial custody, hence the petitioner may be released on bail.

On the other hand, learned APP for the State vehemently opposes the present bail application and submitted that the bail application of the present petitioner deserves to be dismissed. Status report has also been filed by the State.

From the perusal of material placed on record, it is revealed that the prosecutrix/victim is of 17 years of age on the date when she was examined. She also admits that she had fallen in love with Sanjay, brother of the present petitioner, which has been reproduced above. Sanjay, brother of the

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petitioner is on regular bail.

In these circumstances, on the point of parity, I admit the petitioner on bail, on his furnishing bail bond in the sum of Rs.10,000/- with one surety of the like amount to the satisfaction of the concerned Metropolitan Magistrate with the condition that the petitioner shall not leave the country without prior permission of the Court concerned and shall not tamper with the prosecution evidence and he shall also not contact the prosecutrix/victim in any manner. It is, however clarified that this order shall not affect the merits of the case.

The present bail application is disposed of in the above terms.

Copy of this order be given *dasti*, as prayed.


J.S. MEHTA, J

DECEMBER 14, 2016
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