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

+ **CRL.M.C. 214/2017**

Ms. CHANDNI MADAN @ MEHTA

..... Petitioner

Represented by: **Mr. Narinder Safaya and Mr.
Ujjawal Gautam, Advocates.**

versus

STATE & ORS.

..... Respondents

Represented by: **Mr. Amit Ahlawat, APP for the
State with W/PSI Sunita
Yadav, PS North Rohini.
Mr. Shubham Asri and Mr.
Anmol Sharma, Advocates for
respondent Nos. 2 and 3.**

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER
18.01.2017

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1. The petitioner is the wife of respondent No.2 against whom FIR No.957/2015 under Sections 376/506 IPC and Section 4 of the Protection of Children from Sexual Offences Act, 2012 (in short 'POCSO Act') was registered at PS North Rohini.

2. Interim bail was granted to the respondent No.2 vide order dated 20th December, 2016 by the learned Additional Sessions Judge which was confirmed on 21st December, 2016. The present petition seeks cancellation of bail orders dated 20th December, 2016 and 21st December, 2016. Reasoning of the learned Trial Court in the order dated 20th December, 2016 granting bail is as under:

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“Considering the fact that all the public witnesses in the matter have already been examined and the applicant being in J/C for almost an year. I have analysed the evidence recorded in the matter. I find prima-facie substance in the arguments of Ld. Counsel for the applicant because in view of the admitted Call Detail Records, in respect of Smt. Chandani Madaan, Ms. Kanika Malhotra and Sh. Manoj Pant, a large volume of calls were made among them at or around 27.10.2015 and 21.12.2015. It is admitted case of Smt. Chandani Madaan that she had made calls to Kanika Malhotra and Sh. Manoj Pant even at odd hours. It is also prima-facie apparent that Smt. Chandani Madaan had some issues with regard to her marriage with the applicant. It is also prima-facie evident that Ms. Kanika Malhotra was an associate of her in her business of Q-Net. She had been grooming her in the said business. It is also apparent that Ms. Kanika Malhotra has not placed on record any document to establish that she had been a teacher in Arihant Playway School where child victim was studying.

It is common knowledge that the children of tender age besides being gullible are very pliable because of their sheer nature. It is also common knowledge that children of such age live in make believe world. Here the child victim had been staying with Smt. Chandani Madaan in her close proximity between 27.10.2015 to 21.12.2015. Out of which from 19.12.2015 till 21.12.2015 she had been staying with Smt. Chandani Madaan at Shahdara. This fact read with the proved fact of call detail records that there was a large volume of calls among Smt. Chandani Madaan, Ms. Kanika Malhotra and Sh. Manoj Pant at or around 27.10.2015 and 21.12.2015, the possibility of a conspiracy against the applicant and consequent tutoring of the child victim cannot be ruled out.

It is also evident on record that right from the date of registration of FIR till today, Smt. Chandani Madaan has been represented by various Lawyers at various stages. She has

admitted in her cross-examination that she has been proceedings in the matter as per the advice received by her from her counsels from time to time. I wonder if her allegations against the applicant were truthful then there was no need for her to engage any counsel much less a large number of counsels. Her conduct during the course of trial has been highly derogatory which includes levelling false allegations against her own previous lawyers, Ld. Addl. PP for the State and the Presiding Officer. It is also evident that she has also sworn a false affidavit before the Hon'ble High Court of Delhi, in the transfer petition, which is pending disposal wherein she conveniently introduced two false documents claiming the same to be part of trial court record but the same having not been considered by the Trial Judge which is factually incorrect as no such documents are part of trial court record, however I would refrain from commenting on those documents as the matter is sub judice before the Hon'ble High Court of Delhi. It is also evident that she has introduced characters in her story as per her own convenience. In her evidence she introduced one Ms. Gunjan and alleged that she was forced to delete the video clip by the brother of applicant whereas it has come on record that Ms. Gunjan never had the copy of any such video recording. In the later part of her cross-examination she introduced one Ms. Neha, the beautician, to give explanation to the questions as to why she had been in touch on phone with Sh. Manoj Pant at odd hours.

As if, this was not enough, the forensic evidence clearly brings out the truth that CD Ex. P-1 was prepared after 17 to 18 hours of the recording of FIR because the memory card mysteriously turned into a CD.

Considering the facts and circumstances of the case in totality, I find it to be a fit case for grant of bail to the applicant/accused Sandeep Madaan. Accordingly he is admitted to bail on his furnishing a personal bond in the sum

of ₹20,000/- with one surety in the like amount till next date of hearing.”

3. Vide order dated 21st December, 2016 the learned Additional Sessions Judge noted that PW-5 had been examined and cross-examined and no other PW was present. The prosecutor stated that five witnesses were not required to be examined. On the oral prayer of the learned APP for the State the witness from FSL was summoned for 22nd February, 2017 and since all material witnesses had been examined, the Court confirmed the grant of bail.

4. Learned counsel for the petitioner submits that an interim bail could be granted only on some issue, like domestic problem, health problem or such other problems and the learned Trial Court erred in granting interim bail on 20th December, 2016 which was confirmed on 21st December, 2016. Further adverse inference drawn by the learned Trial Court from the statement made by the petitioner in the cross-examination was unwarranted. Learned counsel further contends that it was too early for the learned Trial Court to give an opinion on the CDs.

5. As noted above the order passed by the learned Trial Court first granting interim bail and then confirming the same is reasoned and cannot be termed as perverse. Any observation made on the evidence recorded during trial is not a final expression of opinion and there is no illegality in noting the reasons for grant of bail.

6. The learned Additional Sessions Judge has already noted that anything stated in the order shall not be construed as expression of opinion on the final merits of the case. It is well settled that once material witnesses

are examined and the trial is likely to take some time the accused can be granted bail which fact has been noted by the learned Trial Court in its order dated 21st December, 2016. Hence the present petition is dismissed warranting no interference in the two orders passed by the learned Additional Sessions Judge.

MUKTA GUPTA, J.

JANUARY 18, 2017
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