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

+ BAIL APPLN. 227/2017

ROHIT KUMAR

..... Petitioner

Through Mr.C.S.S. Tomar, Mr.Kapil
Chaudhari and Mr.B.S. Pal, Advs.

versus

STATE

..... Respondent

Through Mr.Ashish Dutta, APP with W/SI
Sushila, PS South Avenue.

CORAM:

HON'BLE MR. JUSTICE P.S.TEJI

ORDER

% **14.02.2017**

Arguments heard.

The present application has been filed under Section 439 Cr.P.C. for the grant of regular bail in FIR No.7/2015, under Sections 354-A/354-D/376 IPC and Sections 6/10/12 of the POCSO Act, Police Station South Avenue.

As per FIR, the allegations levelled against the accused/ petitioner are that a written complaint was made by the mother of the prosecutrix to the police in which it was alleged that she was working with Smt.Ranjana Prakash Desai, the then Supreme Court Judge at her residence. Previously, the complainant was residing with her at her government residence i.e. 4, Jantar Mantar, Delhi in a servant quarter with her family and in December 2014, the complainant shifted to 7, Teen Murti Marg. The complainant was having three

children and they were students of Lions Vidya Mandir, Kushak Lane. In one of the servant quarters, accused Rohit Kumar was also residing. On 10.11.2015, her daughter Taniya informed that accused had been harassing her since the last 1½ years. Accused used to call Taniya in his room, hold her tightly, touch her private parts and also touched other parts of body of Taniya in a wrongful manner. When Taniya tried to escape, accused threatened her that if she disclosed the same to her parents then he would complain that Taniya used to talk bad with him. Thereafter, accused asked Taniya again and again to come to his room, used to restrain her on her way to school and also used to show her porn videos on the mobile phone. The complainant informed the same to her husband who in turn told the same to his employer Mr.Maik Desai and then the police was informed.

On the basis of complaint made to the police, FIR of the instant case was registered. The accused was arrested and after completion of investigation, charge sheet was filed in the Court.

Argument advanced by the learned counsel for petitioner/accused is that there are various discrepancies in the complaint and the statement of the prosecutrix. He has submitted that in the complaint made to the police, there is no whisper of any incident of rape, but at a later stage the prosecutrix has alleged that sexual intercourse was done with her by the accused and then in her testimony before the Court she has not stated anything about the rape. It is further argued that there is delay in lodging the FIR and the same has not been explained. The prosecutrix has not given any date, day and time of the incident. It is further submitted that initially the

prosecutrix and her parents refused to get her medically examined but later on she was medically examined.

Per contra, learned APP for the State has argued that the prosecutrix has duly supported the case of the prosecution in her testimony recorded before the Court. She has reiterated the allegations in her statement recorded under Section 164 Cr.P.C. The prosecutrix is a minor girl. It is further submitted that in the MLC of the prosecutrix, the doctor has opined that the possibility of sexual assault cannot be ruled out. It is further submitted that as per FSL report, pornographic material was found in the mobile phone of the accused. The allegations levelled against the accused are serious in nature and it is not a fit case to release him on bail.

Perusal of record shows that the complainant in her complaint made to the police has stated that the prosecutrix was sexually assaulted by the accused. She has also stated that the accused used to show pornographic videos to the prosecutrix. In her statement recorded under Section 164 Cr.P.C., the prosecutrix has reiterated the allegations that the accused used to touch her inappropriately. In the MLC recorded by the doctor, the prosecutrix also gave the history that she was sexually assaulted by the accused. Statement of the prosecutrix was recorded in the Court during which she also stated that she was sexually assaulted by the accused. Statement of Mr.Mike Desai, son of the then Justice Ranjana Prakash Desai was also recorded in the Court wherein he has verified the act of the accused.

It has also come on record that the mobile phone of the accused

was examined in the FSL and as per FSL report, there were pornographic videos in the same, which corroborates the case of the prosecution and the allegations against the accused. It has also come in the MLC of the prosecutrix that the possibility of sexual assault with her cannot be ruled out. The contentions raised by the counsel for the accused that there are discrepancies in the statement of the prosecutrix and delay in lodging the FIR are a matter of trial and no comment on the same can be made at this stage.

In view of the above mentioned facts and circumstances and the seriousness of the allegations, this Court does not find it a fit case to release the accused/petitioner on bail.

Bail application is accordingly dismissed.

P.S.TEJI, J

FEBRUARY 14, 2017
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