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

+ W.P.(CRL) 917/2017

ASHISH SAXENA

..... Petitioner

Through: Mr. R.K. Bali, Advocate with Mr. G.S. Randhawa, Advocate along with petitioner in person.

VERSUS

STATE & ANR

..... Respondents

Through: Mr. Rahul Mehra, Standing Counsel (Crl.) and Mr. Tushar Sannu, Adv. for the State. Mr. Ashish Sehrawat, Advocate for R-2 along with respondent no. 2 in person.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MR. JUSTICE VINOD GOEL

ORDER

% **28.03.2017**

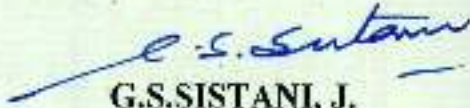
This is a petition under Article 226 of the Constitution of India filed by the father of a 5 years old child. The facts to be noticed for disposal of this writ petition are that the petitioner's marriage was solemnized with one Ms. Subha Saxena on 24.04.2008. A child namely Khushboo was born on 09.09.2011. However, the parties separated and a decree of divorce was granted in the year 2012. The custody of the girl child remained with the father, the petitioner herein. Subsequently, on 07.01.2016 an FIR No. 24/2016 under Section 366A/34 IPC and 4 & 12 of POCSO Act was registered at PS Bindapur, District South-West, Delhi against the petitioner. The petitioner was arrested on 15.01.2016. The custody of his minor

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daughter remained with his brother Mr. Aditya Saxena, who unfortunately expired on 24.03.2016 and the daughter was thereafter being looked after by the wife of his deceased brother. It is the case of the petitioner that when he was released on interim bail for a period of one month on 09.03.2017, he went to his house i.e. 311, DDA Flats, Bindapur, Delhi-110059 but the house was found locked. The ground floor was in occupation of a tenant who spoke to respondent no. 2 but the petitioner could not learn about the whereabouts of his daughter which forced him to approach this court. Notice was issued in this matter on 24.03.2017. A direction was issued to respondent no. 2 to remain present in court along with the minor child. The respondent no. 2 submits that post the petitioner being in jail, she has been looking after the minor child even after the demise of her husband. She further submits that she has now admitted the child to Tyagi Public School for coming session. The petitioner submits that he wishes to retain the custody of his minor daughter. The respondent no. 2 has no objection to the same. Accordingly, the child would accompany her father, the petitioner herein. The writ petition is disposed of accordingly.

MARCH 28, 2017

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G.S.SISTANI, J.


VINOD GOEL, J.