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

+ **BAIL APPLN. 963/2017**

VEERU

..... Petitioner

Through: Mr.Vishnu Sharan, Adv.

versus

THE STATE (NCT OF DELHI)

..... Respondent

Through: Mr.Panna Lal Sharma, APP for State
SI Harjinder Kaur, PS-Old Delhi
Railway Station

CORAM:

HON'BLE MR. JUSTICE I.S.MEHTA

ORDER

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27.09.2017

This is an application under Section 439 Cr.P.C. filed on behalf of the petitioner seeking grant of regular bail in case FIR No.246/2016, under Sections 363/376 IPC & Section 4 of POCSO Act, registered at Police Station- Old Delhi Railway Station, Delhi.

Learned counsel for the petitioner submits that the petitioner is an innocent person and allegations alleged in FIR No.246/2016, under Sections 363/376 IPC & Section 4 of POCSO Act, registered at Police Station- Old Delhi Railway Station, Delhi is false. He further submits that the statement of prosecutrix has already been recorded by the Trial Court and she has not supported the case of the prosecution. He further submits that there is no evidence qua against the present petitioner. Counsel for the petitioner further submits the petitioner is in judicial custody since 29.05.2016. He has further submitted that trial is not likely to conclude in near future and the continued

incarceration of the petitioner will not serve any purpose and prays that the petitioner be released on regular bail.

On the other hand, learned APP for the State has vehemently opposed the bail application and has submitted that on the date of incident, the prosecutrix was a minor. He further submits that the prosecutrix met the petitioner at railway station as she lost her travelling ticket. He further submits that on the pretext of helping the prosecutrix, the petitioner has victimized her by sexual assault. He further submits that the ocular statement as well the statement under Section 164 Cr.P.C of the prosecutrix was recorded. He further submits that the prosecutrix has correctly identified the accused (petitioner herein) and has also supported the version of the prosecution regarding commission of sexual assault on her person. He has further submitted that during investigation, medical examination of the prosecutrix was also carried out and it affirms the factum of her being sexually assaulted. He has further submitted that only two witnesses i.e. Investigating Officer and *malkhana moharar* are left to be examined by the prosecution.

The petitioner is stated to be in judicial custody since 29.05.2016 for the offence punishable under Sections 363/376 IPC & Section 4 of POCSO Act, registered at Police Station- Old Delhi Railway Station, Delhi. The prosecutrix in her statement under Section 164 Cr.P.C as well as in the ocular statement has stated that the petitioner has committed rape on her person and she has also identified the petitioner. The prosecutrix has met the petitioner in railway station. The petitioner instead of helping has misused the minor girl by committing sexual assault on her person. Accordingly, I am of the view that the petitioner does not deserve any

leniency at this stage. Consequently the present bail application is dismissed.
However, this order shall not affect the merit of the case.

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

I.S.MEHTA, J

SEPTEMBER 27, 2017/sr