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

+ **BAIL APPLN. 1064/2017**

RAKESH

..... Petitioner

Through: Mr.Chander M Maini, Adv.

versus

THE GOVT OF NCT OF DELHI

..... Respondent

Through: Ms.Kusum Dhalla, APP for State

SI Naveen, PS-Subzi Mandi

CORAM:

HON'BLE MR. JUSTICE I.S.MEHTA

ORDER

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30.05.2017

CRL.M.A.9456/2017

Exemption allowed subject to all just exceptions.

Application stands disposed of.

BAIL APPLN. 1064/2017

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.21/2016, under Sections 376/354 IPC read with Section 4 of POCSO Act, registered at Police Station-Subzi Mandi, Delhi.

Learned counsel for the petitioner submits that the petitioner is an innocent person and allegations alleged in FIR No.21/2016, under Sections 376/354 IPC read with Section 4 of POCSO Act, registered at Police Station-Subzi Mandi, Delhi is false. Counsel for the petitioner further submits that the petitioner has not caused any sexual assault on the victim and there is no medical evidence to this effect. He has submitted that merely putting allegations is ipso-facto not sufficient to put the petitioner behind bar. He has further submitted that investigation has already been completed and the

petitioner is in judicial custody since 19.01.2016 and not required for further investigation in the present case. 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 if the petitioner is released, he may influence the witnesses during trial. Learned APP submits that on internal examination of the victim, hymen was not torn but it is a case of sexual assault.

Looking in the above facts and circumstances, since the investigation has already been completed and the petitioner is stated to be in judicial custody since 19.01.2016 and as per the medical examination there is no evidence to attribute Section 376 IPC, no purpose would be served if the petitioner is kept in judicial custody as the trial is likely to take some time, consequently, the petitioner is granted bail on his furnishing a bail bond in the sum of Rs.20,000/- with one surety of the like amount to the satisfaction of the concerned Court below with the condition that he shall not influence the prosecution witnesses; he shall not contact, threaten or coerce the victim or any of her family members or to indulge in any illegal activities; he shall not tamper the prosecution evidence and he should not leave India without prior permission of the Court below.

The present bail application is disposed of accordingly. However, this order shall not affect the merit of the case.

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

I.S.MEHTA, J

MAY 30, 2017/sr