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

+ **BAIL APPLN. 2378/2016**

ASHIM SIKDAR

..... Petitioner

Through: M/s Sandeep Sehgal, S.K.Shukla,
Advocates

versus

STATE

..... Respondent

Through: Ms. Radhika Kolluru, APP with
Inspector Ram Niwas, PS Sarita
Vihar.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

ORDER

06.01.2017

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Ms. Kolluru has tendered in court the status report which is taken on record. The petitioner seeks regular bail in case FIR No. 268/2016 PS Sarita Vihar registered under Sections 18, 19, 20 of The Transplantation of Human Organs and Tissues Act, 1994 (TOHO Act) and 419/420/468/471/120-B IPC. The petitioner is in judicial custody since 30th May, 2016.

The submission of learned counsel for the petitioner, firstly, is that since the offences relate to a special Act, the investigation, inquiry and trial can take place only under the provisions of the TOHO Act. He has also

referred to Section 4(2) of the Cr.P.C. to submit that the police had no authority to register the FIR since the offences alleged against the petitioner pertain to the TOHO Act. Only the appropriate authority appointed by the Central Government could have acted under Section 13(3)(iv) of the TOHO Act. It is further argued that since the offences alleged against the petitioner is governed by Section 19(g) of the TOHO Act, the provisions of the IPC could not have been invoked since TOHO Act is a special Act and would override the provisions of IPC.

On the other hand, the submission of Ms. Kolluru is that the appropriate authority has granted approval under Section 22(1)(b) of the TOHO Act on 17.10.2016. Moreover, the offences alleged against the petitioner are under the TOHO Act, and under the IPC are noted in the FIR itself and, therefore, the police is empowered to register the FIR and carry out investigation. She further submits that the issues raised by the petitioner with regard to jurisdiction and competence of the police to register the FIR and carry out investigation and arrest the petitioner are pending consideration before a Division Bench in a criminal writ petition.

It is not necessary to get embroiled into the aforesaid submissions. It has also emerged from the status report that the investigation is complete and charge-sheet already stands filed. Thus, the custody of the petitioner is not required for any purpose now.

Looking to the nature of the offence, the petitioner is directed to be released on bail upon his furnishing personal bond in the sum of Rs. 20,000/- with one surety in the like amount to the satisfaction of the trial court. This is further subject to the condition that at the time of his release, he shall provide his mobile number which shall not be changed without prior

intimation to the court and shall be kept in working condition at all the times. He shall not seek to influence any of the prosecution witnesses or threaten them in any manner or tamper with any evidence. He shall attend each and every date of hearing. He shall not indulge in any other crime of the same nature or any other crime while on bail.

The bail application stands disposed of.

Dasti.

VIPIN SANGHI, J

JANUARY 06, 2017

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