

\$~5

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

+ **BAIL APPLN. 2518/2016**

HARKU MANDAL

..... Petitioner

Represented by: Mr. Vivek Sood, Sr. Adv. with
Mr. Siddharth Gupta, Adv.

versus

STATE OF NCT OF DELHI

..... Respondent

Represented by: Ms. Meenakshi Chauhan, APP.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

01.02.2017

%

1. By the present petition, the petitioner seeks bail in case FIR No.727/2014 under Sections 376/506 IPC and Section 4 of the Protection of Children from Sexual Offences Act (in short 'POCSO Act').
2. The allegations of the complainant in the FIR are that in January 2014 she came to Delhi from Jharkhand and stayed with her uncle at Tuglakabad Village. The petitioner was known to her uncle and arranged a job for her at Gurgaon where she worked for three months. In April, 2014, the petitioner took her to his house at Gurgaon where he raped her by putting off her clothes and when she tried to cry he threatened her. Thereafter, the petitioner again arranged a job for her at Gurgaon. On 13th July, 2014 she came to the house of her uncle and disclosed about the incident to her uncle and aunt whereafter the above noted FIR was registered.
3. After the statement of the prosecutrix recorded under Section 164 Cr.P.C. and she was medically examined, charge sheet was filed. Charge for

offences punishable under Section 376/506 IPC and Section 4 of the POCSO Act has been framed against the petitioner. During the course of trial, out of 18 witnesses, 7 witnesses including the prosecutrix have been examined.

4. Learned APP for the State on instructions submits that after charge sheet was filed, further verification was conducted in respect of the age of the prosecutrix and it was revealed that her date of birth was 25th February, 1996 as per the school admission register in the school she first attended. Thus, supplementary charge sheet was filed. Learned Trial Court is in the process of examining the concerned witnesses to ascertain the age of the prosecutrix.

5. Needless to note only after examining the relevant witnesses it can be determined whether the charge for offence under Section 4 POCSO Act can be maintained or not.

6. Considering the fact that the petitioner has been in custody for 2 years and 7 months and the prosecutrix has already been examined, this Court deems it fit to grant bail to the petitioner. It is therefore directed that the petitioner be released on bail on his furnishing a personal bond in the sum of ₹25000/- with two sureties of the like amount, subject to the satisfaction of learned Trial Court, further subject to the condition that the petitioner will not leave the country without prior permission of the court concerned and will intimate change of his residential address, if any, by way of an affidavit.

7. Petition is disposed of.

8. Order dasti.

MUKTA GUPTA, J.

FEBRUARY 01, 2017
‘v mittal’