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

+ **BAIL APPLN. 2564/2016**

NIKHIL SHARMA

..... Petitioner

Represented by: Mr. Shiv Charan Garg, Mr.
Imran Khan, Advs.

versus

THE STATE GOVT. OF NCT OF DELHI

..... Respondent

Represented by: Mr. Amit Ahlawat, APP with
SI Mohinder Singh PS Rajouri
Garden.
Mr. M.S. Saifullah, Adv. for
complainant.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

02.05.2017

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1. By the present petition the petitioner seeks bail in case FIR No.690/2016 under Section 377 IPC and Section 4 of the Protection of Children from Sexual Offences Act (in short POCSO) registered at PS Rajouri Garden.

2. Learned counsel for the petitioner submits that the above-noted FIR is a counter-blast to the matrimonial dispute between the sister of the complainant/ victim with the brother of the petitioner. Though the alleged incident took place in May 2016 the FIR was lodged only on 30th July, 2016 after two FIRs had been lodged by the sister of the victim against her father-in-law and husband, out of which one was lodged on 13th June, 2016 and the

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other on 22nd July, 2016. In any case the petitioner has been in custody since 22nd October, 2016 and after framing of charge, the victim has already been examined. There is no other eye-witness of the alleged incidents and the trial is likely to take some time.

3. The above-noted FIR was registered on the complaint of the minor victim on 30th July, 2016 who stated that he was a permanent resident of Aligarh. In the summer vacation in May he had come to the house of his sister at Rajouri Garden. While he was playing with his nephew and niece, the petitioner who is the brother-in-law of his sister took him to his room on the pretext of showing a Hollywood movie. In the room the victim was shown a blue film and thereafter the petitioner committed oral and anal sex with him. This Act was repeated twice later on. During the course of investigation though it is the case of victim that he fell ill thereafter and was taken to Khetarpal Nursing Home and thereafter to AIIMS, he admits that neither at Khetarpal Nurshing Home nor at AIIMS initially he disclosed about the incident, however later on he disclosed about the incident to the medical Board at AIIMS.

4. After registration of FIR, charge-sheet has already been filed and the victim who is the only material witness and has stated that his sister was not present when the incident took place as she had gone out, has already been examined before the learned Trial Court. Though the victim has deposed in sync with his statement on the basis of which FIR was registered and statement under Section 164 Cr.P.C was recorded, however the fact remains that the above-noted FIR was registered after two FIRs were lodged by the sister of the victim against her husband and in-laws. Considering the facts

noted and that the petitioner has been in custody for the last more than six months and the material witness has already been examined, this Court deems it fit to grant bail to the petitioner.

5. Consequently, the petitioner is directed to be released on bail on his furnishing a personal bond in the sum of ₹50,000/- with one surety bond of the like amount to the satisfaction of the learned Trial Court, further subject to the condition that he will not leave the country without the prior permission of the Court concerned and will intimate change of residential address if any by way of an affidavit to the learned Trial Court.

6. Petition is disposed of. Order dasti.

MUKTA GUPTA, J.

MAY 02, 2017
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