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

Order reserved on 01st November, 2017
Order pronounced on 06th November, 2017

+ **BAIL APPLN. 1966/2017**

JAFFAR KHANPetitioner

Through: Mr. Rajat Srivastav, Advocate.

Versus

STATE NCT OF DELHIRespondent

Through: Mr. Akshai Malik, APP for the State with
SI Amit Kumar, PS-I.P. Estate.

CORAM:

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

1. This is the second application under Section 439 Cr.PC for grant of regular bail in case FIR No. 460/2014 under Section 376(i) IPC and Sections 6/10 of Prevention of Children Sexual Offences Act (POCSO) registered at Police Station – IP Estate.
2. The brief facts necessary for disposal of the present application are that on 24.10.2014, the victim girl, aged about 15 years who is mentally challenged went to G. B. Pant Hospital along with her father/complainant to obtain her handicap certificate; that at B-Block Room No. 29, they met a nurse who informed them that for handicap certificate, they have to show documents to Dr. Mishra; that the complainant left to meet Dr. Mishra leaving his daughter sitting on the bench kept in Room No. 29; that after sometime, he returned to Room No. 29, but did not find her daughter on the bench but found in a chair lying in the same room and a boy,

whose name was later revealed Jafar was there and the zip of his pant was opened and his private part was out and her daughter's pant belt was also opened; that the complainant heard the applicant/Jafar saying 'wash your mouth' and on enquiry he replied that he did not do anything; that on 25.10.2014, the victim girl disclosed the aforesaid facts to her mother; that thereafter the complainant lodged the complaint and the applicant/Jafar was arrested on 26.10.2014.

3. Learned counsel for the applicant contended that the FIR is antedated and antetimed; that the name of the applicant/petitioner was appearing in the FIR though neither the complainant nor the victim girl were known to him prior to the alleged incident; that the investigating agency failed to trace the real culprit and the applicant/petitioner has been made scapegoat; that material witnesses including the victim girl and her parents have already been examined in the present case and hence there is no apprehension of influencing the witnesses or interfere with the proceedings of the case; that the applicant/petitioner is in judicial custody for the past three years and the trial will proceed at its own pace, in these circumstances, applicant deserves to be admitted on regular bail.
4. Learned APP for the State vehemently opposed the bail application and contended that the nature of offence involved in the instant case is heinous and grave, especially when the victim girl is a special child; that the applicant/petitioner does not deserve any leniency and present application may be dismissed.

5. I have heard the learned counsel for the parties and perused the material available on record.
6. As per the case of the prosecution, the alleged offence occurred on 24.10.2014 and the matter was reported to the police on the next day i.e. 25.10.2014 by father of the child victim and the applicant/petitioner was arrested on the next day
7. Perusal of the statement of the victim girl, who is a minor and special child recorded under Section 164 Cr.PC and before the Court, goes to show that she has attributed specific role to the applicant/petitioner. She identified the applicant/petitioner correctly and specifically stated that the applicant/petitioner had sexually assaulted her which made him liable to be prosecuted under The Protection of Children from Sexual Offences (POCSO) Act, 2012 is a special law to protect children from sexual abuse and exploitation.
8. In view of the above mentioned facts and circumstances, seriousness of the offence and the fact that the witnesses are yet to be examined and there is apprehension of influencing the witnesses, I am not inclined to grant bail to the accused/petitioner at this stage. Accordingly, the application is dismissed.
9. Before parting with above order, it is made clear that anything observed in the present petition shall not have any bearing on the merits of the case during trial.

SANGITA DHINGRA SEHGAL, J.

NOVEMBER 06, 2017 / gr