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

+ **BAIL APPLN. 1967/2017**

NIKHIL ARYA

..... Petitioner

Through: **Ms.Pratima K.Gupta & Mr.Prashant
Bhardwaj, Advocates**

versus

STATE

..... Respondent

Through: **Mr.Kewal Singh Ahuja, APP for the
State with SI Sachin, PS Hauz Khas
Mr.Praveen Kr.Jain, Mr.Naveen
Kr.Jain, Mr.Sachn Kr.Jain, Mr.Mridul
Kr. & Ms.Komal Pandey, Advocates**

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

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01.11.2017

1. By way of this application filed under Section 438 Cr.P.C., petitioner is seeking anticipatory bail in case FIR No.304/17 under Section 377 IPC & Section 10 of POCSO Act registered with PS Hauz Khas.
2. Status report has been filed by the State. The petitioner has joined investigation.
3. The facts of the case and the submissions on behalf of the parties have already been noted in the order dated 26th September, 2017 while granting interim protection to the petitioner as under:

'3. As per the FIR dated 4th September, 2017 registered at the behest of complainant, he reported that earlier he was

sexually exploited by the petitioner on 4th August, 2017 at about 12.50 a.m. The second incident is stated to be dated 2nd September, 2017 between 11.00 a.m. to 12.00 p.m. Perusal of the record shows that in respect of the first incident dated 4th August, 2017, on 5th August, 2017 i.e. next day the complainant addressed a communication to the SHO PS Hauz Khas duly received in the Police Station on the same day to the effect that on 4th August, 2017 he came to the police station under some misunderstanding and no such incident had taken place. It was also written by him that the above communication dated 5th August, 2017 to the SHO was without any allurement, fear or pressure and was being written in the presence of his mother and sister. It was further mentioned that neither he nor his guardian wanted any action in the matter.

4. Learned APP for the State has been asked as to whether there was some DD entry or report made to the police station in respect of the incident dated 4th August, 2017 after midnight when the complainant visited the Police Station Hauz Khas. Learned APP for the State, on instructions, submits that though the complainant visited the police station but no such report about the sodomy being committed on him was made hence there was no occasion either to register an FIR or to send him for medical examination. Learned APP further submits that as the people from Gurukul and his family member also reached the police station and they did not ask for any action so no entry was made in the daily diary or FIR was registered. Learned APP for the State submits that had the commission of cognizable offence been brought to the notice of the police, the police was required to take appropriate action in the matter and also to send the complainant for medical examination.

5. The MLC of the complainant shows that in respect of the alleged incident dated 2nd September, 2017, the medical examination has been conducted only on 4th September, 2017. Learned APP for the State submits that in view of the statement of the complainant recorded under Section 164 Cr.P.C. the petitioner may be required for custodial interrogation.

6. In the above facts, the Petitioner is directed to join the

investigation as and when required by the IO/SHO concerned. He is also directed to furnish his contact number to the IO/SHO concerned today itself to facilitate communication for the purpose of joining the investigation.

7. *List on 1st November, 2017.*

8. *Till then, no coercive steps be taken against the petitioner.'*

4. Taking into consideration the alleged communication by the complainant addressed to PS Hauz Khas which was duly received to the effect that he visited the police station under some misunderstanding and no such incident had taken place, it is directed that in the event of arrest petitioner shall be released on bail on his furnishing personal bond in the sum of ₹50,000/- with one surety of the like amount to the satisfaction of IO/SHO concerned.

5. The application stands disposed of.

Order *dasti*.

PRATIBHA RANI, J.

NOVEMBER 01, 2017

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