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

+ BAIL APPLN. 2232/2017

VINOD BHARDWAJ

..... Petitioner

Through: Mr.Rajnish Kumar Singh &
Mr.Vasu Gupta, Advocates

versus

THE STATE GOVT OF NCT OF DELHI

..... Respondent

Through: Ms.Rajni Gupta, APP for the State

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

% **06.11.2017**

CRL.M.A.18034/2017

1. Exemption allowed, subject to all just exceptions.
2. The application is disposed of.

BAIL APPLN.2232/2017

1. By way of this application filed under Section 439 Cr.P.C. the petitioner is seeking regular bail in case FIR No.524/2017, under Sections 376/506/354/354A IPC & 6/8 POCSO Act registered at PS Burari.
2. Notice. Learned APP as above accepts notice on behalf of the State and files the status report.
3. The case FIR No.524/2017 was registered on the statement made by 'N' (name withheld to conceal her identity), the child victim who is daughter of elder brother of the petitioner. The statement of the child victim was also recorded before the learned Magistrate under Section 164 Cr.P.C. Charge-sheet in this case has already been filed.

4. Mr.Baswa Nand Bhardwaj, father of the petitioner and grandfather of the child victim is present and requests that he may be given a hearing.
5. His request is allowed.
6. Mr.Baswa Nand Bhardwaj, father of the petitioner submits that he had two sons and one daughter. His elder son i.e. father of the child victim had already expired but the mother of the child victim has made the life of every other member in the family miserable as she wants a bigger chunk in the family property which is built on a small plot and owned by his wife. Though he agreed to divide the said house wherein a shop is also being run, in three shares i.e. one to the widow of his deceased son (mother of the child victim), one share to his daughter and one share to the petitioner, who recently got married. He submits that the main bone of contention is that he wants to take care of interest of his daughter also by giving her 1/3 share in the property.
7. Learned counsel for the petitioner has submitted that along with the petition photographs, post the alleged incidents, of the wedding of the petitioner as well as of his birthday are also annexed, wherein the entire family, including the child victim can be seen in very comfortable position which indicates that the child victim was tutored by her mother and they have got the petitioner framed in a false case and have ruined the entire life of the petitioner as well his wife.
8. The State has been asked whether there is any medical examination of the child to show that there were bite marks on her breast, the State has referred to the MLC placed on record, by the petitioner himself, as Annexure A-3.

9. As per the MLC, the patient gave the history of molestation in month of April by a known person (uncle) several times. Suspect touched the victim near her lower parts while she was taking bath. He even touched her upper region (breast) and back region. No physical assault. The report of the doctor states that hymen is intact and there is no sign of any penetration.

10. While registering the FIR on 17th September, 2017, the child victim referred to one incident in the month of April when after playing in rain she was taking bath in the upper floor, her uncle covered his finger with a cloth and inserted in her private part and another incident in the month of May when she was watching TV and her uncle came and bite on her breast.

11. In her statement under Section 164 Cr.P.C, which was recorded on 19th September, 2017 i.e just after two days of registration of FIR she stated that when she was taking bath her uncle covered his finger with her suit and touched and cleaned '*her susu wali and potty wali jagah*'. When she scolded him, he asked her not to disclose it to anyone else he would see her. In her statement under Section 164 Cr.P.C. she has stated that when her mother was narrating the story of bad touch, she informed her that in the month of May her chachu had given bite on her breast and this happened three-four times and every time he threatened to see her.

12. The MLC does not speak about any bite mark or any other injury on the breast or private part of the child victim.

13. Taking into consideration the facts and that investigation is complete and chargesheet has been filed, the petitioner is ordered to be released on bail on his furnishing a personal bond in the sum of ₹50,000/- with one surety of the like amount to the satisfaction of concerned Trial Court/Link Court subject to the condition that petitioner shall not try to contact the child

victim and her family in any manner whatsoever.

14. The application is disposed of.

Order *dasti*.

PRATIBHA RANI, J.

NOVEMBER 06, 2017

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