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

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Judgment delivered on: 30.01.2018

+ CRL.REV.P. 561/2017

GOPI NISHA MALLAH

..... Petitioner

versus

STATE (NCT OF DELHI)

..... Respondent

+ BAIL APPLN. 152/2018

GOPI NISHA MALLAH

..... Petitioner

versus

THE STATE GOVT OF NCT OF DELHI

..... Respondent

Advocates who appeared in this case:

For the Petitioner : Mr. Akhand Pratap Singh with Ms.
Adit Mittal and Mr. Nakul Pathania.

For the Respondents : Ms. Anita Abraham, APP for State.
SI Pushpendra, PS Bara Hindu Rao.

CORAM:-

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

30.01.2018

SANJEEV SACHDEVA, J. (ORAL)

CRL.REV.P. 561/2017

1. The petitioner impugns order dated 25.07.2017, whereby, the

defence evidence was closed.

2. It is contended that 25.07.2017 was the first date fixed for leading defence evidence. The petitioner was in custody and was produced from judicial custody on the said date. However, till 2:37 pm (as noticed by the Court), his counsel did not appear. The Court has noticed that no list of witnesses was filed and no witness was produced by the accused.

3. Perusal of the order dated 25.07.2017 shows that after the Court had closed the right to lead defence evidence, one Lal Chand had put his appearance before the Court and had claimed to be a defence witness.

4. Learned counsel for the petitioner submits that the petitioner has to produce three witnesses in his defence. He further submits that since the petitioner was incarcerated on the date when the impugned order was passed and his right was closed, he was not in a position to contact his counsel and find out his whereabouts. Learned counsel for the petitioner submits that the petitioner has never taken any adjournment either for cross-examining the prosecution witnesses or for leading evidence.

5. Keeping in view of the facts of the case and the fact that the petitioner was incarcerated on the date when the impugned order was passed, and one witness did appear on behalf of the petitioner though

belatedly, I am of the view that, in the interest of justice, one opportunity should be granted to the petitioner to lead defence evidence.

6. Accordingly, the impugned order dated 25.07.2017 is set aside. The petitioner is directed to file the list of witnesses within one week from today with copy to the Public Prosecutor.

7. Learned counsel for the petitioner undertakes that the defence witnesses shall be present on the next date fixed before the Trial Court.

8. It is stated that the matter is listed before the Trial Court on 26.02.2018 for awaiting the orders of this Court.

9. List before the Trial Court on 26.02.2018. On the said date, the Trial Court shall endeavour to record the defence witnesses. However, in case, it is not possible for the Trial Court to record the evidence or conclude the evidence, the witnesses of the petitioner shall be bound down for such other dates as may be convenient to the Trial Court.

10. The Trial Court shall expedite the recording of the evidence and conclude the proceedings expeditiously.

11. In case, the Trial Court record has been received, the same be transmitted back forthwith. In case, the same has not been received,

the same need not be requisitioned.

12. The petition is allowed in the above terms.

BAIL APPLN. 152/2018

In view of the orders passed in CRL.REV.P. 561/2017 directing expeditious disposal of the trial court proceedings, learned counsel for the petitioner does not wish to press the present bail application.

The present bail application is, accordingly, dismissed as not pressed.

JANUARY 30, 2018
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SANJEEV SACHDEVA, J