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

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Judgment delivered on: 15.03.2018

+ **BAIL APPLN. 192/2018**

DAKSH GUPTA

..... Petitioner

versus

STATE (GOVT OF NCT OF DELHI)

..... Respondent

Advocates who appeared in this case:

For the Petitioner : Mr Lokesh Kumar Mishra and Mr Himanshu Sharma

For the Respondent : Ms Anita Abraham, Addl. PP for the State
Insp Malti Bana.

CORAM:-

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

15.03.2018

SANJEEV SACHDEVA, J. (ORAL)

1. The petitioner seeks regular bail in case FIR No.355/2017 under Section 376 IPC & 6 of the POCSO Act, Police Station New Ashok Nagar.

2. The subject FIR was registered on the allegation of the prosecutrix that she is a permanent resident of Rajasthan and was temporarily living with her aunt in Mayur Vihar, Phase-3, where she used to sell *Agarbati*. It is alleged that one boy, namely, Ravi, allured

her and made physical relationships with her without her consent.

3. On return to her native place, she disclosed the incident to her father, where after, the present complaint was lodged and FIR registered. Medical examination of the prosecutrix was conducted and it was found that she was pregnant. Subsequently, a child has been born. On 18.07.2017, the petitioner was arrested on the alleged pointing out by the Prosecutrix and is in judicial custody since then.

4. Learned counsel for the petitioner submits that the petitioner has been falsely implicated, as in the FIR, it is contended that the offence has been committed by one Ravi, who is son of a Sikh, which statement is reiterated in the statement given under Section 164 of the Code of Criminal Procedure, 1973. The Petitioner is not the son of a Sikh.

5. Learned counsel for the petitioner points out that in her testimony before the Trial Court, the prosecutrix has failed to identify the petitioner. Rather in her testimony, she has testified that she had pointed out the real accused Ravi to the Police during investigation; however, the police arrested the petitioner.

6. Blood samples of the child born to the prosecutrix as well as the accused were sent to the Forensic Science Laboratory for DNA analysis.

7. The report of the Forensic Science Laboratory dated 13.03.2018

has been received, which opines that there is no match and it is concluded that the child is not the biological child of the petitioner. Original report of the FSL has been produced in Court by the Investigating Officer. The same has been perused and returned to the learned Additional Public Prosecutor.

8. Without commenting on the merits of the case, perusal of the record shows that the petitioner has made out a fit case for grant of bail. Subject to the petitioner furnishing a bail bond in the sum of Rs.25,000/- with one surety of the like amount to the satisfaction of the Trial Court, the petitioner is admitted to Bail. The Petitioner shall not do anything, which shall prejudice either the trial or the prosecution witnesses. The petitioner shall not attempt to contact the prosecutrix or her family.

9. Order Dasti under signatures of the Court Master.

MARCH 15, 2018

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SANJEEV SACHDEVA, J