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

+ **BAIL APPLN. 218/2018**

JAI HIND

..... Petitioner

Represented by: Mr. S.L.Jain, Advocate.

versus

THE STATE GOVT OF NCT OF DELHI

..... Respondent

Represented by: Mr. Amit Ahlawat, APP for
State with SI Balwant Singh,
PS Mundka.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

03.04.2018

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1. By this petition the petitioner seeks bail in case FIR No. 179/2017 under Sections 363/376 IPC registered at PS Mundka, Delhi.
2. The above noted FIR was registered on the complaint of father of the girl who alleged that his daughter aged 16 years had left the home at about 4.00 PM saying that she was going to house of her friend but has not returned back. He suspected that someone kidnapped her. On 11th July, 2017 the complainant came to the police station along with his daughter and alleged that his daughter was kidnapped by one Jai Hind and was sexually assaulted by him. Hence Section 376 IPC and Section 6 of Protection of Children from Sexual Offence Act (in short 'POCSO Act') were also added.
3. Statement of the prosecutrix was recorded under Section 164 Cr.P.C. wherein she stated that she had gone with the petitioner of her own free will and voluntarily had sex with him. Further during the course of investigation

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it was revealed that the date of birth of the prosecutrix as per the school first attended was 8th January, 1999. Thus on the date of alleged offence she was a major. Hence Section 6 of POCSO Act which was invoked was removed from the investigation. Since there were conflicting statements of the prosecutrix under Section 161 Cr.P.C. and Section 164 Cr.P.C. a charge sheet has been filed for offences punishable under Sections 363/376 Cr.P.C.

4. Considering the statement of the prosecutrix recorded under Section 164 Cr.P.C. and that charge sheet has since been filed, this Court deems it fit to grant bail to the petitioner. It is, therefore, directed that the petitioner be released on bail on his furnishing a personal bond in the sum of ₹25,000/- with one surety of the like amount, subject to the satisfaction of the learned Trial Court further subject to the condition that in case the petitioner changes the residential address, the same will be intimated to the Court concerned by way of an affidavit.

5. Petition is disposed of.

6. Order dasti.

MUKTA GUPTA, J.

APRIL 03, 2018

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