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

+ **BAIL APPLN. 808/2018**

NIRAJ

..... Petitioner

Through: Mr. M. Tripathi and Mr. A.K. Singh,
Advocate

versus

STATE (GOVT OF NCT) OF DELHI

..... Respondent

Through: Ms. Meenakshi Dahiya, APP with SI
Usha, PS Mandir Marg

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

% **31.07.2018**

The petitioner is the step-father of prosecutrix child, aged about 12 years, he having been accused of acts of commission constituting offences punishable under Sections 376 IPC and Sections 4/ 6 of Protection of Children from Sexual Offences Act, 2012 on which FIR no.16/2017 was registered in police station Mandir Marg. The petitioner was arrested on 30.01.2017 and has thereafter been in custody.

The investigation has already been concluded and on the charge-sheet that was led, the Special Judge took cognizance, the charge having been framed, the case being at the stage of prosecution evidence.

The prime ground on which the release on bail is pressed is that the petitioner was not even present at the time of the alleged offence, he being on duty far away. The counsel present is not even

aware of the location of the work place, the petition being also totally silent in that regard.

The petitioner appears to have moved an application before the trial court seeking call detail record (CDR) in respect of his mobile phone connection being called for so that he could establish the plea of *alibi*. The application, as per the oral submissions of the counsel, was moved in March 2018, one year and one month after the arrest and the incident. The Additional Public Prosecutor submits that a report was filed yesterday in the trial court indicating that the record of such period was not available.

On being asked as to why the petitioner himself could not muster proof with regard to the call detail record if he was a subscriber to the mobile phone connection in question, the counsel explained that it is a prepaid connection for which there is no bill received. Be that as it may, some request to the mobile service connectivity provider could have been made earlier by the petitioner himself.

In the given facts and circumstances, there is nothing before this court on which the plea of *alibi* could be given any credence at this stage.

The petition for bail is dismissed.

R.K.GAUBA, J.

JULY 31, 2018

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