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

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Judgment delivered on: 11.09.2018

+ BAIL APPLN. 1867/2018

RAHIS

..... Petitioner

versus

STATE (THE NCT OF DELHI)

..... Respondent

Advocates who appeared in this case:

For the Petitioner :

Mr.K.K. Manan, Sr. Advocate with Ms.Bhavya Chauhan, Ms.Akansha Malhotra, Mr.Shekhar Tandon, Ms.Shivani Kant & Mr.Mukul Aggrawal, Advs.

For the Respondent:

Mr.Kamal Kumar Ghai, Addl. PP for the State.
ASI Ram Singh PS Amar Colony.

CORAM:-

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

11.09.2018

SANJEEV SACHDEVA, J. (ORAL)

1. The petitioner seeks regular bail in FIR No.270/2017 under sections 377/34 IPC read with section 6 of the POCSO Act, Police Station Vijay Vihar.

2. The allegations in the FIR are that the co-accused had committed an offence under section 377 IPC against the complainant 3-4 months ago and repeated the same one day before the date of the complaint. At the time of

making the complaint, it was further alleged that the petitioner had also committed the same offence against the complainant about one month ago.

3. The statement of complainant/victim has been recorded before the Trial Court. He has reiterated his averments in the FIR. However, he has stated that he was threatened by the co-accused not to make any complaint insofar as the offence committed by the co-accused is concerned.

4. Learned senior counsel for the petitioner submits that the ossification test of the victim/complainant has opined that the age of the victim is about 16-18 years. He submits that in view of the law laid down by the Supreme Court in *Ram Suresh Singh vs Prabhat Singh @ Chhotu Singh & Anr: (2009) 6 SCC 681*, the margin of error in age ascertained by radiological examination is two years on either side and keeping in view the margin of error in age, the age would have been taken as 20 years.

5. He further submits that there is delay in making a complaint insofar as the petitioner is concerned and further that there is no allegation even in the testimony before the Court that the petitioner had threatened the victim. Therefore, there was no reason for the victim not to make a complaint against the petitioner if the offence had been committed.

6. Learned senior counsel for the petitioner submits that there is no medical evidence to substantiate the commission of the offence by the petitioner except for the oral testimony of the victim. He submits that the petitioner has been falsely implicated as there was a monetary transaction between the father of the victim and the petitioner. Since the petitioner had demanded his loan amount, he was falsely implicated in this case.

7. The petitioner has been in custody since 17.07.2017.
8. Learned APP submits that 27 prosecution witnesses have been cited and only one has been examined.
9. Without commenting on the merits of the case and keeping in view the totality of facts and circumstances, I am of the view that the petitioner has made out a case for grant of regular bail. Accordingly, on petitioner on furnishing a bond in the sum of Rs.25,000/- with one surety of the like amount to the satisfaction of the trial court, petitioner shall be released on bail, if not required in any other case. The petitioner shall not do anything, which may prejudice either the trial or the prosecution witnesses. Petitioner shall not contact the victim or his family. Petitioner shall not leave the country without the permission of the Court.
10. The petition is disposed of in the above terms.
11. Order *Dasti* under signatures of the Court Master.

SEPTEMBER 11, 2018
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SANJEEV SACHDEVA, J