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

+ **BAIL APPLN. 1076/2017**

NITIN KUMAR

..... Petitioner

Represented by: Ms. Vagisha Kochar,
Advocate.

versus

THE STATE GOVT OF NCT OF DELHI

..... Respondent

Represented by: Mr. Hirein Sharma, APP for
the State with SI Jasbir Malik,
PS Ranhola.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

16.01.2018

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1. By this petition the petitioner seeks bail in case FIR No.856/2014 under Sections 363/376 IPC and Section 6 of the Protection of Children from Sexual Offences Act (in short 'POCSO Act') registered on the complaint of the prosecutrix herself.

2. In the petition, learned counsel for the petitioner submits that though charge was framed on 10th November, 2014 and the evidence of the prosecutrix was recorded in July, 2016, nothing proceeded thereafter and the petitioner is languishing in Jail without any progress in the trial.

3. Vide order dated 21st December, 2017, this Court had directed the State to file an additional status report and also sought for a report from the concerned Court explaining the reasons for delay in trial. Inadvertently the Registry did not send any letter to the learned Trial Court for calling the

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report and hence no report has been received from the learned Trial Court. However, as per the status report filed by the State it is evident that during the course of trial only the prosecutrix has been examined and no other prosecution witness has been examined. There cannot be any doubt that after the conclusion of the examination of the prosecutrix in July, 2016 examination of no other witness for one year six months, amounts to delay in the trial.

4. Learned counsel for the petitioner has taken this Court through the various statements of the prosecutrix, first recorded before the doctor at the time of preparation of the MLC; second recorded under Section 164 Cr.P.C.; third before the Child Welfare Committee after she was given counselling and thereafter in the Court. Though the prosecutrix in her statement has taken the name of the petitioner as the person who committed rape on her however in the statements there are variations in respect of the facts whether it was committed once or twice, the place and the manner of commission of offence. The petitioner has been languishing in custody since 10th November, 2014 and the prosecutrix who is the only material witness in the prosecution case has since been examined. The Trial is likely to take some time and the material witness having been examined, 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 the petitioner will not leave the country without prior permission of the court concerned and in case of change of address the same will be intimated to the court concerned by way

of an affidavit.

5. Petition is disposed of.

6. Order dasti.

JANUARY 16, 2018

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MUKTA GUPTA, J.