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

+ **BAIL APPLN. 2053/2017**

SURESH CHAND

..... Petitioner

Represented by: Ms. Sonali Karwasra Joon, Mr.
Mayank Badoni, Mr. Gaurav
Bhatt, Advs.

versus

STATE NCT OF DELHI

..... Respondent

Represented by: Mr. Ashok Kr. Garg, APP.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

23.01.2018

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By this petition the petitioner seeks bail in case FIR No.1240/2015 under Sections 376/451 IPC and Section 6 of the Protection of Children from Sexual Offences Act (in short the POCSO Act).

Learned counsel for the petitioner submits that there are material improvements in the statement of the witnesses and only after it was found that the hymen was ruptured a case of fingering has been made out bringing the same in the ambit of Section 376 IPC which version is required to be rejected.

The above-noted FIR was registered on the complaint of the mother of the prosecutrix who alleged that she was working in a parlour and her husband was working in the market. Both husband and wife used to leave their home at around 10.00 AM and came back by 10.30 in the evening.

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The complainant stated that she had three children who used to be alone. On 26th December, 2015 at 10.00 AM her husband left for his work and came back on 8.40 PM. Her daughter aged 4 years came and told her that the landlord took off his pant and inserted his finger in her urinating organ. Her husband made a call to 100 number and thus she sought action against the petitioner.

Contention of learned counsel for the petitioner that the allegation of fingering are not present in the FIR is incorrect as per the contents of FIR noted above. The minor victim at the time of incident was allegedly 4 years as per the FIR. Even if accepting the version of the petitioner that the child was 7 years, the non-explanation of all the acts or detailing the minor facts in the FIR and stating later on cannot be treated as subsequent improvements.

Considering the nature of allegations against the petitioner, this Court finds no ground to grant bail to the petitioner.

Petition is dismissed.

MUKTA GUPTA, J.

JANUARY 23, 2018
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