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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 2649/2017**

AKHILESH SINGH Petitioner
Through: Mr.Puneet Goel, Advocate

versus

STATE OF NCT OF DELHI Respondent
Through: Mr. Ashish Dutta, APP for State with
SI Samrat Khatiyar and ASI Sunita,
PS Harsh Vihar

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

% **23.01.2018**

Arguments have been addressed on behalf of either side on the application filed on behalf of the applicant seeking grant of bail submitting *inter alia* to the effect that the applicant is in custody since 21.9.2017 for the alleged commission of rape of both his daughters-in-law.

On 22.12.2017, the documents that were sought to be filed by the petitioner have been filed submitting to the effect that the mother of the prosecutrix had been compelling her to falsely implicate her spouse as well in a criminal case. Through the averments made in the application and submission of the State it is sought to be urged that there are variations in the statement made in the FIR by the prosecutrix and her statement under Section 164 Cr.P.C. and variations in the statement of the sister of the prosecutrix before the police and her statement under Section 164 Cr.P.C., submitting to the

effect that there are variations to the effect that there had been repeated rapes of the prosecutrix on whose statement the FIR had been registered and of her sister but the statement under 164 Cr.P.C. was only to the effect that the alleged rape had taken place six to seven months prior to the date of the recording of the statement 164 Cr.P.C. of the victim other than on whose complaint the FIR had been registered and the prosecutrix on whose statement the FIR has been recorded only alleged rape on the date 20.9.2017 despite repeated incidents having been alleged in the FIR in relation to the alleged rape. It has also been submitted on behalf of the petitioner that the statements made before the doctors are also variant.

It has also been submitted on behalf of the applicant that the prosecutrix on whose complaint the FIR has been registered in her statement under Section 164 Cr.P.C. and her statement made before the doctor of repeated rape put forth her age under 18 years and that the provision of the POCSO has been erroneously in the instant case.

On behalf of the State, the application has been vehemently opposed placing reliance on the statement under Section 164 Cr.P.C. of the prosecutrix and her sister, and the alleged document of the Government Girls Senior Secondary School, Saboli indicated the date of birth of the prosecutrix on whose statement the FIR has been lodged as being 6.7.2003 indicating her age to be 14 years four months as on date. It has also been submitted that the charges have already been framed on 10.1.2018 and the matter is fixed for Prosecution Evidence on 1.3.2018 and that the victims have supported the statements made under Section 164 Cr.P.C. in relation to the

aspect of the applicant having committed rape of the two daughters-in-law when they were alone at home.

On behalf of the applicant it has *inter alia* been submitted that the FIR has been lodged at the instigation of the mother of the two alleged victims for the removal of her financial penury so that she is allowed to live in the house of the applicant. It has also been submitted on behalf of the applicant that due to the quarrel that had taken place between the mother and the two alleged victims at the residence of the applicant, the police had been called.

On a consideration of the rival submissions, on a perusal of the statements U/s 164 Cr.P.C. of the stated victims, submissions made on behalf of the applicant to the effect that there are variations in statements in relation to the specific dates of the alleged commission of offence of rape and that there are no allegation of repeated assault or alleged commission of rape, it is essential to observe that the FIR and statements under Section 164 Cr.P.C. of the victims relate to the alleged commission of rape by the father-in-law on the daughters-in-law and assault or their maltreatment and in the circumstances of the case there is no ground whatsoever for the grant of bail. The application is dismissed.

ANU MALHOTRA, J

JANUARY 23, 2018/SV