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

+ **BAIL APPLN. 738/2019**

MOHD. SALIM @ MIYAN JI

..... Petitioner

Through: **Mr. Rizwan Ahmad Khan, Advocate**

versus

STATE, NCT OF DELHI

..... Respondent

Through: **Mr. Amit Ahlawat, APP for the State
with SI Jasmer Singh, PS Jahangir
Puri.**

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

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20.03.2019

CrI.M.A.6164/2019 (exemption)

Exemption allowed, subject to all just exceptions.

Application stands disposed of. _

BAIL APPLN. 738/2019

The petitioner is facing trial in the criminal case arising out of FIR No.421/2017, under Sections 370/374 of the Indian Penal Code, 1860 (IPC) read with Sections 3/14 of Child Labour Prohibition Act and Sections 75/79 of Juvenile Justice (Care and Protection of Children) Act, 2000 of Police Station Jahangir Puri. He was arrested on 11.09.2017 and thereafter he has been in judicial custody. He had approached this court for release on bail through bail application No.2815/2018 which was, however, permitted to be withdrawn and dismissed accordingly by order dated 30.11.2018 with liberty being granted to move afresh before the trial court after the material

witnesses including both the parents of the children, who are described as the victims, had been examined. The petitioner moved fresh application (IA No.1/2019) before the trial court which was dismissed by order dated 06.02.2019, the trial court taking the view that though the two children have turned hostile in supporting the case for prosecution, their statements under Section 164 Cr.P.C. would still remain relevant.

Having heard and having perused the record, this court finds the approach of the trial court to be not proper in this case. The testimonies of two victim children (PW-1 and PW-2) have to be seen against the version of their respective parents (PW-5 and PW-7). Having regard to the depositions of the said witnesses, without making any comment either way on the merits of the case, this court is of the view that a case for release on bail is made out. The application is allowed. Granted accordingly subject to the following conditions:-

- (i). The petitioner shall furnish personal bond in the sum of Rs.25,000/- with one surety in like amount to the satisfaction of the trial court;
- (ii). Prior to his release, he shall give the telephone numbers of self and of at least one other responsible family member besides that of the surety to the trial court;
- (iii). He shall scrupulously appear at each and every stage of the proceedings before the trial court so as not to cause any obstruction or delay to its progress;
- (iv). He shall not engage in any criminal activity;
- (v). He shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade

him from disclosing such facts to the Court or to any police officer or tamper with the evidence; and

(vi). He shall not leave India without the prior permission of the court of cognizance or the trial court, as the case may be, and to ensure due compliance with this condition and shall deposit his passport, if he holds one, with the said court.

The bail application is disposed of in these terms.

A copy of this order shall be transmitted to the jail authorities and to the trial court.

Dasti under the signature of Court Master.

R.K.GAUBA, J.

MARCH 20, 2019

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