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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 3113/2019**
ROHIT SAIN Petitioner
Through: Mr. Deep Chand, Adv.

versus

STATE Respondent
Through: Mr. Kewal Singh Ahuja, APP for
State with W/SI Kailash Kain, PS
Kapashera.

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER
% **07.02.2020**

The applicant seeks grant of bail in relation to the FIR No.104/2019 under Sections 363/376/506 of the Indian Penal Code, 1860 and Section 6 of the POCSO Act registered at PS Kapashera.

In terms of directions dated 17.12.2019 in view of the practice directions dated 24.09.2019 of this Court bearing no.67/Rules/DHC, the Investigating Officer of the case was directed to communicate to the informant or any person authorized by the prosecutrix that her presence is obligatory for the hearing of the present bail application. The Investigating Officer is present and has identified the prosecutrix and her mother present today in Court.

Submissions have been made on behalf of either side. It is indicated through the copy of the charge sheet placed on record that the applicant and the prosecutrix have been married on 13.06.2019 in the presence of all relatives of the parties and the photographs in

relation thereto are placed on record.

The State affirms the factum of the prosecutrix living happily at her matrimonial home. To similar effect is the submission made by the prosecutrix as also indicated vide her affidavit dated 26.11.2019.

On behalf of the applicant, reliance is sought to be placed on the certificate issued by the Municipal Corporation of Greater Mumbai giving the date of birth of the prosecutrix to be 17.01.2001, though the State seeks to refute the said document placing reliance on the school information received from the school of the prosecutrix giving her date of birth to be 17.01.2002.

In view of Annexure P7 placed on record, which shows the place of birth of the prosecutrix to be at Shree Mumbadevi Homo Hospital, Mumbai, the aspect of the birth of the prosecutrix at the said hospital be verified by the Investigating Agency, which verification report to be placed before the learned trial Court.

Without any observations on the merits or demerits of the trial that would take place, in view of the submissions made by the prosecutrix and her mother and the contents of the charge sheet itself and the refuted aspect of the age of the prosecutrix with it having been submitted on behalf of the applicant that she was a major with the date of birth being 17.01.2001, which can only be determined during the trial, it is considered appropriate to release the applicant on bail in the instant case on filing a bail bond of Rs.50,000/- with one surety of the like amount to the satisfaction of the learned trial Court with directions that he shall not leave the country and shall appear before the learned trial Court as and when directed.

Nothing stated hereinabove shall amount to any expression on the merits or demerits of the trial that would take place.

The present order is passed in the peculiar circumstances of the instant case and is not to be treated as precedent.

The bail application is disposed of.

Copy of the order be given Dasti under the signatures of the Court Master, as prayed.

ANU MALHOTRA, J

FEBRUARY 07, 2020

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