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

+ BAIL APPLN. 678/2019

FAISAL ALAM @ SHARUK

..... Petitioner

Through: Mr. Madhav Khurana, Advocate
on the panel of DHCLSC with
Ms.Riya Arora, Advocate

Versus

STATE

..... Respondent

Through: Mr.Raghuvinder Varma,
Additional Public Prosecutor for
State

CORAM:

HON'BLE MR. JUSTICE BRIJESH SETHI

ORDER

10.02.2020

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Petitioner is said to be in custody since 9th December, 2016. He is facing trial in FIR No. 857/2016, under Sections 377/394/397/34 IPC and Section 6 of Prevention of Children from Sexual Offences Act, 2015, registered at police station Neb Sarai, Delhi.

Learned counsel for petitioner submits that there are material contradictions in the statement of complainant recorded under Section 164 Cr.P.C. and his deposition recorded before the learned trial court and that Medical Examination Report dated 9th December, 2016 corroborated with FSL report dated 10th March, 2017 clearly exonerates petitioner from the offence alleged. It is submitted that the two eye witnesses have not supported the prosecution version and also that no recovery was affected at the instance of petitioner and since petitioner has already faced agony of long trial, he deserves bail in this case. Reliance is placed upon decision of a Coordinate Bench of this Court in **State (Govt. of Nct of**

Delhi) Vs. Mullah Muzib (2015) 1 High Court Cases (Del) 589.

On the other hand, learned Additional Public Prosecutor for State has strongly opposed the bail application on the ground that upon verification complainant and his brother have been found to be minor, who were held at the knife point and were robbed of Rs.2,500/-. It is submitted that charge-sheet in this case has already been filed and that evidence of all the material witnesses including complainants have already been recorded and now only the Investigating Officer of this case is to be examined.

Heard.

I have considered the rival submissions advanced on behalf of counsel representing both the sides. The allegations levelled against the petitioner are serious in nature. The learned trial court is yet to record evidence of the Investigating Officer. At the time of considering the bail application of an accused, this Court cannot conduct a mini trial to appreciate the facts emerging on the record or analyze the deposition of the witnesses already recorded. In view of the fact that evidence will be appreciated by the learned trial court in detail and at appropriate stage and learned trial court will also examine the contradictions appearing in the statement of witnesses, no ground for regular bail are made out at this stage.

The application stands dismissed accordingly.

BRIJESH SETHI, J

FEBRUARY 10, 2020/r