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

+ **BAIL APPLN. 2860/2019**

RAHUL

..... Petitioner

Through: Mr. Rahul Kumar, Advocate

versus

THE STATE

..... Respondent

Through: Ms. Radhika Kolluru, APP for State with
W/SI Priyanka, P.S. Bhalswa Dairy

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

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05.02.2020

1. The present bail application has been filed under Section 439 seeking bail in FIR No.375/2018 registered under Section 376 IPC & Section 6 of POCSO Act at P.S. Bhalswa Dairy, Delhi.
2. Learned counsel for the petitioner submits that the petitioner has a pending litigation with the mother of the child victim on account of which the child victim has been tutored to make false allegations against the petitioner in the present case. He further submits that there are material contradictions and improvements in the prosecution case against the petitioner.
3. Learned counsel for the petitioner in support of his submission has relied upon Sushil Kumar Vs. State of Himachal Pradesh reported as 2018 SCC OnLine HP 1532, where it has been held that the gravity alone cannot be a decisive ground to deny bail to the accused.

4. Learned APP for the State, on the other hand, has vehemently opposed the bail application. She submits that the child victim has been consistent in her statement during the investigation as well as during her testimony before the court. She has also invited the attention to the observations recorded in the MLC of the child victim. The child victim 'J' has been examined as PW1. She, at the relevant time of incident, was about 6-7 years of age.

5. A perusal of the testimony as well as statements of the child victim recorded during investigation show that she is consistent about the incident and the role of the petitioner in committing the offence. She has stated that the petitioner had inserted a candle in her vagina. During her testimony, she had stated that on the day of recording of her statement, her mother had asked her to exonerate the petitioner however, despite being told to say otherwise, she has reiterated her statement which was made during the investigation.

6. I am not inclined to allow the bail application. The same is dismissed.

7. Needless to say that anything stated hereinabove is only for the purpose of disposing of the present application and it shall not be considered as an expression on the merits of the case.

MANOJ KUMAR OHRI, J

FEBRUARY 05, 2020

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