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

+ CRL.REV.P. 144/2023 & CRL.M.A. 35007/2023

JITENDER

.....Petitioner

Through: Mr. Joginder Tuli & Ms.
Joshini Tuli, Advocates.

versus

STATE (NCT OF DELHI)

.....Respondent

Through: Inspector Dinesh Chandra
& PSI Shivam Bisht (P.S.
Khajuri Khas).

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

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24.07.2024

1. The present petition is filed challenging the order dated 21.01.2023 (hereafter '**impugned order**'), passed by the learned Additional Sessions Judge, North East District, Karkardooma Court, Delhi, in Sessions Case No.132/2019 arising out of FIR No.500/2016, registered at police station Khajuri Khas.
2. The learned counsel for the petitioner submits that a detailed order has been passed on an application filed by the petitioner under Section 34(2) of the Protection of Children from Sexual Offences Act, 2012 ('**POCSO**').
3. She submits that the application was filed praying for conducting ossification test of the prosecutrix.
4. She submits that the prosecutrix is related to the petitioner, and therefore, the petitioner and other family members are aware of her date of birth.
5. She submits that the wrong date of birth is being mentioned just to invoke the provisions of the POCSO Act.



6. She submits that the actual date of birth of the prosecutrix is 15.09.1993 whereas in the complaint it is alleged that her date of birth is 15.09.1995.
7. She submits that the petitioner apprehends that the impugned order would come in way of the petitioner leading defence evidence during the course of trial.
8. She submits that the petitioner would be satisfied if he is permitted to raise all defences during the course of trial before the learned Trial Court.
9. The learned Additional Public Prosecutor for the State submits that the learned Trial Court has categorically noted that, at this stage, no ground is made out to hold any inquiry under Section 34 of the POCSO Act.
10. He submits that the petitioner is not barred from leading defence evidence to prove that the date of birth of the prosecutrix is not 15.09.1995.
11. In view of the above, the present petition is dismissed as withdrawn. The petitioner is at liberty to raise all defences during the course of trial.
12. The petition is disposed of in the aforesaid terms.

AMIT MAHAJAN, J

JULY 24, 2024

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