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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 4074/2023**

PANKAJ SOLANKI

..... Petitioner

Through: **Mr. Puneet Kumar Verma, Advocate**

versus

STATE THROUGH SHO

..... Respondent

Through: **Mr. Sanjeev Sabharwal, APP for State
with SI Manoj Kumar, P.S. Nihar
Vihar.**

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

07.05.2024

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1. By way of present petition filed under Section 482 Cr.P.C., the petitioner seeks to assail the order dated 13.02.2023 passed by Ld. ASJ-07 (POCSO), Tis Hazari Court, Delhi vide which petitioner's application under Section 311 Cr.P.C. seeking further cross-examination of the complainant came to be disallowed.
2. Learned counsel for the petitioner submits that though the cross-examination of the complainant/victim was carried out on 05.02.2020, however, inadvertently no question was put qua the details of the alleged incident. He submits that grave injustice would be caused in case the complainant is not cross-examined on the aforesaid aspect. It is further informed that trial is pending at the stage of prosecution evidence and that the IO is yet to be examined. It is further submitted that though in the impugned order, it has been stated that complainant is a minor, however, she is presently 23 years of age. Lastly, it is submitted that if the further



cross-examination of complainant is permitted to be carried out, the petitioner undertakes that he shall carry out the cross-examination on the same day and shall not seek adjournment.

3. Petition is resisted by learned APP for the State who states that petitioner has filed the underlying application under Section 311 Cr.P.C. after a delay of more than two years. He further submits that considering that the case has been under POCSO, the victim /complainant should not be recalled time and again.

4. I have heard the learned counsels for the parties and gone through the records available.

5. On the aspect of delay, it is stated that on account of COVID outbreak, the trial could not proceed for some time. Fair trial is the hallmark of criminal justice system which entails protection of not only the rights of victims but also interest of the accused. Although, complainant was cross-examined, however, upon a perusal of the same, copy of which has been placed on record, this Court finds merit in the petitioner's submissions and is inclined to allow the present petition, subject however to the cost of Rs.10,000/- to be deposited with the Delhi State Legal Services Authority (A/c No. 18580110053263, UCO Bank, Branch: Rouse Avenue, IFSC: UCBA0003364) within a period of four weeks from today. The amount so deposited shall be utilized by the Delhi State Legal Services Authority for providing counselling/psychological support to POCSO victims requiring such assistance.

6. The trial Court is directed to summon the complainant only for one date on which day the petitioner shall carry out the cross-examination. Trial Court shall not entertain any request for adjournment.



7. Copy of the order be communicated to the concerned Trial Court.
8. A copy of this order be also communicated to the Member Secretary, Delhi State Legal Services Authority for intimation.
9. Petition is disposed of in the above terms alongwith miscellaneous application.

MANOJ KUMAR OHRI, J

MAY 7, 2024

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