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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ BAIL APPLN. 1886/2024
POOJA MANNAPetitioner

Through: Mr. Joginder Tuli, Adv.
versus

STATE NCT OF DELHIRespondent

Through: Mr. Aman Usman, APP
S/V Pooja Manna, PS Malviya Nagar

CORAM:

HON'BLE MR. JUSTICE JASMEET SINGH

ORDER

06.12.2024

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1. This is a petition seeking regular bail in the FIR No. 383/2020 dated 11.09.2020 registered at PS Malviya Nagar under Sections 363 IPC and chargesheet u/s 363/323/342/ 365/354/354A/376/376D/34 of IPC and Section 6/8 of POCSO Act was filed.
2. The allegations against the petitioner are that the petitioner kidnapped the minor child and thereafter abetted the offence of sexual assault on the minor child.
3. It is stated by Mr. Tuli, learned counsel for the petitioner that in the present case, the MLC does not disclose any offence of sexual assault. It is further stated that there is a discrepancy in the testimony of the prosecutrix and lastly, it is submitted that in the POCSO case, the age has to be conclusively proved by the prosecution and the same has not been done.
4. The FSL report shows that the male DNA generated from the clothes of the prosecutrix matches with the DNA samples of the other male accused persons, who were all said to be participating in the offence.
5. Further, the MLC report has recorded that there are multiple scratches



and abrasions on the chest of the prosecutrix.

6. The argument that the age of the victim has to be proved conclusively by the prosecution also deserves rejection as the evidence of the prosecution is still underway and they have not concluded the evidence.
7. Even otherwise, the testimony of the victim and contradictions, if any, are not relevant in the view of the order of the Hon'ble Supreme Court in "*X vs. State of Rajasthan*, 2024 INSC 909 and more particularly paragraph 16 which reads as under:-

"16. We are of the view that the aforesaid is not a correct practice that the Courts below should adopt. Once the trial commences, it should be allowed to reach to its final conclusion which may either result in the conviction of the accused or acquittal of the accused. The moment the High Court exercises its discretion in favour of the accused and orders release of the accused on bail by looking into the deposition of the victim, it will have its own impact on the pending trial when it comes to appreciating the oral evidence of the victim. It is only in the event if the trial gets unduly delayed and that too for no fault on the part of the accused, the Court may be justified in ordering his release on bail on the ground that right of the accused to have a speedy trial has been infringed."

8. It is stated that 17 out of 25 witnesses, have already been examined. It is expected that the learned Trial Court will conclude the proceedings as expeditiously as possible.
9. For the said reasons, I am not inclined to entertain the present bail application at this instance and the same is dismissed.

JASMEET SINGH, J

DECEMBER 6, 2024 / (MS)