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

+ **CRL.REV.P. 853/2024**

AMAN TALWAR

.....Petitioner

Through: Mr. G. S. Sharma, Mr. R. A. Sharma,
Advs.

versus

STATE GNCT OF DELHI & ANR

.....Respondents

Through: Mr. Shoaib Haider, APP for the State
SI Sharmila Yadav, PS Wazirabad

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

% **08.07.2024**

CRL.M.A. 19602/2024 (Exemption)

Allowed, subject to all just exceptions.

CRL.REV.P. 853/2024 & CRL.M.A. 19601/2024

1. The present proceedings primarily arise from SC No. 670/2021 wherein the Petitioner is being tried for an offence under Section 376, 328, 506, 509 IPC.
2. The allegation against the Petitioner primarily is of rape on the pretext of marriage. During the Examination-in-Chief of the prosecutrix, the prosecutrix had made a statement that the accused used to make the prosecutrix and her son to watch obscene videos which is an offence under the POCSO Act.
3. It is the case of the Petitioner that this is a marked improvement because such a statement was neither made in the FIR nor in the statement



under Section 164 CrPC and therefore, the transfer to the POCSO Court was not correct.

4. When this Court suggested to the learned Counsel for the Petitioner that the contention that the charge under the POCSO Act cannot be made out because this is an afterthought can be made before the Special Judge, POCSO, learned Counsel for the Petitioner states that the Special Judge, POCSO, would be bound by the finding in the Order dated 13.02.2024 which is under challenge in the present petition.

5. It is made clear that the learned Special Judge, POCSO at the time of framing of charge would consider the case on its own merits uninfluenced by the Order dated 13.02.2024.

6. It is made clear that this Court has not made any observation on the merits of the case. It is always open for the Petitioner to challenge the said order in case the charge is made under the POCSO Act and to raise all contentions which are open to the Petitioner. All contentions of the Petitioner are kept open.

7. With these observations, the petition is disposed of along with pending application(s), if any.

SUBRAMONIUM PRASAD, J

JULY 8, 2024

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