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

+ CRL.REV.P. 86/2024

SANJAY KUMAR JHA

..... Petitioner

Through: Mr. Bhagwan Jha, Advocate.
Ms. Garima Tripathi, Proxy counsel.

versus

THE STATE (NCT OF DELHI) AND ORS

..... Respondents

Through: Mr. Amit Ahlawat, APP for the State.
SI Ramesh Kumar, P.S. Lodhi
Colony.

CORAM:

HON'BLE MR. JUSTICE AMIT SHARMA

ORDER

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22.02.2024

CRL.M.A. 1923/2024

1. The present application under Section 5 of the Limitation Act, 1963 seeks condonation of delay of 50 days in filing the captioned petition.
2. Issue notice.
3. Learned APP for the State accepts notice, and fairly does not oppose the present application.
4. For the reasons stated in the application and in the interest of justice, the delay of 50 days is condoned and the application is allowed.
5. The application is disposed of accordingly.



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6. The present petition under Section 397 of the CrPC seeks the following prayers:-

“(i) Set aside the order dated order dated 13.07.2023 passed by the Hon'ble court of Sh. Prabh Deep Kaur, Ld ASJ (FTSC) POSCO act, South - East. District, Saket Court, New Delhi in the FIR no: 24/2016 U/S 354/354A/354D/IPC and 10/12 POCSO act, Ps: Lodhi Colony in the case titled as State Vs Sanjay Kumar Jha as whereby Hon'ble trial court was pleased to partly allow and partly dismiss the application u/s 311 Cr.P.C and dismiss the prayer to recall PW-1, PW-2 and PW-4. For further cross examination.

(ii) pass any other order (s) which this Hon'ble Court may deems fit and proper in the facts and circumstances of the present case, in the interest of justice.”

7. Learned counsel appearing on behalf of the petitioner relies upon a judgment of co-ordinate Bench of this Court in **Vinod Rawat v. State, 2022 SCC OnLine Del. 2989**, in support of his contention that the bar under Section 33(5) of the POCSO Act is not an absolute one and in the facts and circumstances of the case an application under Section 311 of Code of Criminal Procedure, 1973 can be entertained and allowed by the learned Trial Court.

8. Issue notice.

9. Learned APP for the State accepts notice and seeks time to file a status report. Let the same be filed before the next date of hearing with an advance copy to the learned counsel for the petitioner.

10. Notice be issued to the complainant through SHO concerned returnable on 06.05.2024.

AMIT SHARMA, J

FEBRUARY 22, 2024/K