



2025:DHC:7226



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* IN THE HIGH COURT OF DELHI AT NEW DELHI

% Date of decision: 19th August, 2025+ **BAIL APPLN. 2409/2025, CRL.M.A. 19110/2025**

SAKIB

.....Petitioner

Through: Dr. S.S. Hooda, Mr. Shubham
Awasthi and Mr. Aditya Hooda,
Advocates

versus

STATE OF NCT OF DELHI

.....Respondent

Through: Mr. Utkarsh, APP for the State with
SI Khushboo P.S. Greater Kailash
Mr. Rachit Gupta, Advocate with
Complainant in person**CORAM:****HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA****J U D G M E N T (oral)**

1. Application under Section 483 of Bhartiya Nagarik Suraksha Sanhita 2023 (*hereinafter referred to as BNSS*), has been filed on behalf of the Applicant/Accused-Sakib for grant of *Regular Bail in FIR No. 0214/2025 registered under Sections 64(1)/127(2) BNS at P.S. Greater Kailash.*
2. It is submitted that the Applicant is in judicial custody since 26.04.2025. The investigations have been completed and the Charge-sheet has been filed in the Court on 06.06.2025. His continued custody would not serve any purpose. He is a law-abiding citizen with deep roots in society and has no previous criminal history. The FIR has been filed falsely to implicate the Applicant and to harass him for extorting huge amounts of money from him.



3. On 23.04.2025, the Complainant had visited Future World for the repair of her mobile phone and had met the Applicant. After the Applicant sent the phone to the workshop, the Complainant requested to be comfortable in the second-floor office of the Applicant, which he permitted. Following the repair, she collected her phone and shook hands and hugged the Applicant, before departing.

4. *Per contra*, the Complainant alleges that while waiting in the second-floor office of the Applicant, he returned with her repaired phone and she expressed her gratitude and prepared to leave. The Applicant purportedly switched off the lights, pushed her against the wall, lifted her top, and touched her breasts. Applicant then unzipped her jeans and proceeded to commit rape on her and ejaculated into her underwear. The Complainant then, went to the restroom to freshen up and thereafter left the premises in a state of shock. She did not lodge the FIR immediately which was registered after an unexplainable delay of 02 days on 25.04.2025. The Complainant was sent for medical examination on 26.04.2025. The CCTV footage of the alleged incident and other evidence were collected by the investigating Agency. The Charge-sheet already stands filed on 06.06.2025.

5. The Bail Application preferred before Ld. ASJ has been dismissed *vide* Order dated 12.06.2025.

6. The Bail is sought *on the ground* that no further investigations are to be carried out, since the Charge-sheet has been filed in the Court. There is no incriminating evidence against the Applicant in the Charge-sheet. The independent witnesses have not corroborated the allegations made by the Complainant. There are material contradictions in her complaint and her statement recorded under Section 183 B.N.S.S. While in her Complaint, she



alleged that the Applicant had penetrated his penis in her vagina, a contrary statement has been made in the Complaint under Section 183 B.N.S.S. before the Magistrate wherein she states that *he tried to penetrate*. This is not a minor slip, but constitutes a fundamental change in the nature of the alleged act.

7. In both the statements, she claimed that the Applicant ejaculated in her underwear. However, the MLC says that the location of ejaculation of semen is unknown, which directly is in contradiction to the allegation made in the FIR and her statements recorded before the Magistrate. Furthermore, MLC explicitly notes the Complainant's unwillingness to undergo an internal examination. This refusal is highly suspicious and significantly discredits the allegations made by the Complainant.

8. There is no forensic evidence to corroborate the allegations levied by the Complainant. In the FSL report annexed with the Chargesheet, it is stated that at the place of occurrence, there is no physical evidence to show that the alleged offence had occurred.

9. Further, the alleged offence is stated to have occurred in the bustling Apple company authorized repair and reseller shop. The Complainant did not raise any alarm or hue and cry during the alleged commission of this horrendous crime. This conduct is unnatural and inconsistent with the behaviour of a genuine victim.

10. According to the Statement of the Complainant, after the alleged offence, she went to the bathroom, cleaned herself and then left. It is submitted that the aforesaid behaviour belies the entire Prosecution story as concocted by the Complainant.



2025:DHC:7226



11. Moreover, while the underwear allegedly containing the Applicant's ejaculation, was submitted for forensic evaluation on 25.04.2025, no corresponding Forensic Report presenting any physical evidence, has been submitted before the Court, which is of paramount significance.

12. The CCTV footage of the Apple Shop clearly captured the Complainant leaving the shop after exchanging pleasantries with the Applicant. The Complainant is shown giving a thumbs up with both hands while descending from the Applicant's office when the incident allegedly occurred and thereafter shaking hands with the Applicant outside the store before leaving at 17:05 PM on 23.04.2025.

13. The very circumstances surrounding the alleged incident including the Complainant's decision to wait upstairs in the comfort in the office of the Applicant while the phone was being repaired and her casual greetings before leaving the shop, are irreconcilable with the immediate aftermath of a traumatic event like rape, making the entire story of the Complainant suspicious.

14. It is further submitted that there is deliberate delay of two days in registration of FIR. Had it been recorded immediately, medical evidence would have shown that no rape was committed on the Complainant. The delay in registration of FIR was a deliberate attempt to justify the absence of medical evidence of rape. Furthermore, her refusal for internal examination, material contradictions in her statements, the MLC findings of absence of physical evidence from the scene and non-submission of forensic report of the recovered underwear and there being no independent witnesses corroborating the allegations which allegedly occurred in the office sitting, creates suspicion and discredits the allegations made by the Complainant.



Her single uncorroborated statement, which is fraught with inconsistencies and contradictions, raises grave doubts about the prosecution's story, which is in fact false and fabricated which was created with the primary aim of harassing the Applicant.

15. It is submitted that the Applicant and the Complainant had no prior relationship beyond two brief transactional encounters concerning phone repair. The absence of any established authority or dynamics further undermines the credibility of the allegations.

16. The fundamental postulate of Indian criminal jurisprudence is "*Bail is the rule and Jail is the exception.*" The continued pre-trial detention of the Applicant despite paucity of evidence and non-likelihood of him being convicted, violates this foundational principle and amounts to unjustly punishing him before his guilt is established. He is no longer required for custodial interrogation and no recovery is to be made from the Applicant. He has deep roots in the society and there is no possibility of his jumping the bail or tampering with the investigations. He undertakes to remain bound by any terms that may be imposed by granting bail.

17. Hence, a prayer is made for grant of bail.

18. ***The Status Report*** has been filed on behalf of the State wherein the bail is opposed on the grounds that there is likelihood of the Applicant threatening the Complainant and the witnesses. The offence committed is of serious nature and if the Applicant is granted bail, there is high possibility of his committing the same offence and he may misuse the liberty and may jump the bail.

Submissions heard and record perused.



19. It is an incident which took place on 23.04.2025 in the office of the Applicant, while the FIR got registered on 25.04.2025 at 21.24 Hrs. There are specific allegations made by the Complainant of her being asked to wait in the office of the Applicant on the second floor while her phone came back from repair. According to the complaint, he tried to insert his penis and ejaculated in her underwear.

20. The *first contention* raised by the Applicant is that in the CCTV camera footage recording her leaving the office of the Applicant, shows her smiling and shaking hands and doing a thumbs up with the Applicant before leaving. Her demeanor, as captured in CCTV immediately after the alleged incident, does not display any trauma which a genuine Complainant would suffer after the horrendous offence.

21. This argument is clearly not tenable for the reason that every individual has their own way of dealing with an unpalatable incident. It has been stated that the Complainant came in a state of shock and it took her time to comprehend and gather the courage to make the complaint. Neither the delay of 02 days in registration of FIR nor her conduct immediately after the incident, can be any indicator of the alleged incident being false.

22. The *second contention* raised is that there is no corresponding medical evidence to corroborate her story. However, it has been pointed out by the prosecution that the underwear has been sent to the FSL.

23. Much has been argued about the immediate conduct of the Complainant, who after the incident, went to the bathroom to clean herself up. It is argued that her conduct in not raising any hue and cry or screaming but walking into the bathroom to clean herself, again reflects that it was a consensual act. However, as has been argued on behalf of the Complainant,



2025:DHC:7226



at this stage to say that this was consensual act and not considering that the Complainant was in a state of trauma, would be doing grave injustice to the case of the prosecution. Likewise, not raising an alarm while leaving the office has to be considered in the context of the Complainant being in trauma. All these aspects are matter of trial.

24. It has been vehemently contended that the act, if any, was consensual as the Complainant herself, willingly, went to the second floor of the isolated office of the Applicant, which she would not have done, had she not been a consenting party. However, it is not in dispute that the Complainant had visited the Showroom twice to get the mobile phone repaired and that they had no prior intimacy or a friendship.

25. All these circumstances cannot be considered at this stage of Bail and are required to be tested by evidence. Though the Charge-sheet has been filed, but the charges are yet to be framed.

26. Considering the gravity of the offence and the totality of circumstances and that there is no delay as the Applicant got arrested only on 26.04.2025, there is no ground for grant of bail.

27. The Bail Application along with pending Application, is hereby dismissed.

(NEENA BANSAL KRISHNA)
JUDGE

AUGUST 19, 2025

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