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

CNR No. DLHC010147282025

+ **CRL.M.C. 1925/2025**

CHILD A

.....Petitioner

Through: Mr. Hemant Kumar, Ms. Arushi
Anthwal, Mr. Sameer Kaushik, Ms.
Suchitra Singh and Ms. Tanvi Anand,
Advs.

versus

STATE GOVT. OF NCT OF DELHI AND ANR.

.....Respondents

Through: Ms. Richa Dhawan, APP with SI
Kamlesh Meena, PS Kishangarh.
Mr. Mayank Punia, Adv. for R-2.

CORAM:
HON'BLE MS. JUSTICE MADHU JAIN

ORDER
18.08.2026

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1. This hearing has been done through hybrid mode.
2. The present petition has been filed by the petitioner/survivor child, through her mother, under Section 483(3) of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter referred to as the '*BNSS*'), seeking cancellation of bail granted to respondent no. 2 *vide* order dated 30.08.2024 passed by the learned ASJ-01 (POCSO), Patiala House Courts, New Delhi, in **SC No. 62/2023** arising out of **FIR No. 558/2022** registered at Police Station Kishangarh, initially under Sections 10/12 of the Protection of Children from Sexual Offences Act, 2012 (hereinafter referred to as the '*POCSO Act*'). Upon



completion of investigation, the chargesheet was filed under Sections 376(2)(f)/376AB/354/354B of the Indian Penal Code, 1860 (hereinafter referred to as the 'IPC') and Sections 6/10/12 of the POCSO Act. Charges were thereafter framed against respondent no. 2 on 28.07.2023 under Sections 376(2)(f)/354/354B/509/377/511 of the IPC and Sections 6/10/12 read with Sections 6/18 of the POCSO Act.

3. Briefly stated, the petitioner/survivor child was about six years of age at the time of the alleged incident, whereas respondent no. 2 was about 42 years of age and was her tuition teacher. It is alleged that respondent no. 2 had been sexually assaulting the child on several occasions since the summer vacations of 2022. On 17.12.2022, while the child and her brother were attending tuition, respondent no. 2 allegedly sent her brother away and sexually assaulted the child. The child thereafter disclosed the incident to her mother, pursuant to which the present FIR was registered.

4. The survivor child, in her deposition, stated that respondent no. 2 had repeatedly touched her private part with his hands and tongue and used to send her brother away while doing so. The mother of the child also deposed that the child had disclosed that respondent no. 2 had inserted his fingers in her vagina and licked the same with his tongue. The survivor child, her mother and her brother have been examined during trial.

5. *Vide* the impugned order dated 30.08.2024, the learned Trial Court granted bail to respondent no. 2, *inter alia*, considering the nature of evidence against him, the FSL result, the MLC of the survivor child and the fact that the testimony of the survivor child, her mother and brother had already been recorded. Aggrieved thereby, the petitioner has preferred the present petition seeking cancellation of bail.



6. Learned counsel for the petitioner submits that the survivor child was only six years old whereas respondent no. 2 was about 42 years old and was her tuition teacher. The child has consistently supported the allegations on material aspects and has specifically deposed regarding repeated sexual assault by respondent no. 2 by use of his hands and tongue. It is submitted that minor discrepancies in the testimony of a child of such tender age could not have been made a ground for grant of bail.

7. Learned counsel further submits that during trial, several persons from the side of respondent no. 2 had approached the mother of the child for settlement. Though no specific threat was extended, the mother had expressed apprehension regarding the safety and security of the child and her family.

8. Learned counsel for the petitioner further submits that the learned Trial Court, while granting bail, has gone into the discrepancies in the testimonies of the survivor child, her mother and brother and has also relied upon the MLC and FSL result. He submits that the MLC cannot be determinative at this stage, particularly when the allegations are of penetration/touching by fingers and tongue.

9. In support of his submissions, learned counsel for the petitioner relies upon the Judgment of the Hon'ble Supreme Court in ***X v. State of Rajasthan & Anr.***, SLP (Crl.) No. 13378/2024, to submit that once the trial has commenced, the Court ought not to look into the discrepancies in the deposition of the victim and test her credibility while considering bail, as the same would amount to conducting a mini-trial.

10. Learned counsel for the petitioner further submits that even during her cross-examination, the survivor child has maintained the allegations against respondent no. 2. He submits that the defence has sought to question the



character of the mother of the survivor child by suggesting that she had friendly relations with respondent no. 2 and that her husband did not approve of the same.

11. *Per contra*, learned counsel for respondent no. 2 submits that there was delay in reporting the alleged incident. Though the parents had allegedly confronted respondent no. 2 on 17.12.2022, the police was informed only on the following day. He submits that PW-2 stated that her husband was away and she was alone, whereas in her cross-examination she stated that her sister was also present at home when her son came home to take the pencil.

12. Learned counsel further submits that there are material improvements and contradictions in the testimonies of PW-1, PW-2 and PW-3 regarding the pencil pouch, purchase of Frooti/chips, the door being locked, presence of relatives and the manner in which the incident was disclosed. He further submits that the MLC and FSL result do not support the allegations against respondent no. 2.

13. Learned counsel for respondent no. 2 further submits that the present petition has been filed almost eight months after grant of bail and no subsequent event has been pointed out to show that respondent no. 2 has misused the liberty granted to him or attempted to influence the witnesses or interfere with the trial.

14. Learned counsel further submits that the permanent residence of respondent no. 2 is at District Jaunpur, Uttar Pradesh and the learned Trial Court has already imposed a condition that he shall not reside within a distance of five kilometres from the residence of the survivor child and shall not contact her, her family members or the prosecution witnesses.

15. Learned APP for the State submits that no complaint has been received



from the petitioner at the Police Station after grant of bail to respondent no. 2 by the learned Trial Court.

16. Heard learned counsel for the parties and perused the material placed on record.

17. It is settled law that rejection of bail and cancellation of bail already granted stand on different footings. Bail once granted ought not to be cancelled in a mechanical manner and ordinarily requires cogent and overwhelming circumstances showing that continuation of the accused on bail would not be conducive to a fair trial. In ***P v. State of Madhya Pradesh & Anr.***, (2022) 15 SCC 211, the Hon'ble Supreme Court has held that while considering cancellation of bail, the Court is required to examine whether any supervening circumstances have arisen or whether the post-bail conduct of the accused warrants withdrawal of the liberty granted to him. At the same time, interference may be warranted where the order granting bail is illegal, perverse or based upon irrelevant material.

18. Similarly, in ***Ajwar v. Waseem & Anr.***, (2024) 10 SCC 768, the Hon'ble Supreme Court reiterated that bail once granted ought not to be cancelled mechanically. An order granting bail may nevertheless be interfered with where it is unreasoned or perverse, or where relevant material, gravity of the offence or its impact has been ignored.

19. More recently, in ***Sanjay Kumar Jangid & Anr. v. Mukesh Kumar Agarwal & Anr.***, Criminal Appeal Nos. 2381 of 2025, the Hon'ble Supreme Court reiterated that cancellation of bail is a harsh measure affecting the liberty of an individual and, therefore, should not be lightly resorted to. The Court noticed that circumstances such as misuse of liberty, interference with investigation, tampering with evidence, threatening witnesses or an attempt



to evade the process of law may justify cancellation of bail.

20. In the present case, respondent no. 2 was granted bail *vide* order dated 30.08.2024. No subsequent incident has been brought to the notice of this Court to show that respondent no. 2 has misused the liberty granted to him, attempted to influence or threaten the survivor child or other prosecution witnesses or interfered with the trial. The status report filed by the State also states that no complaint has been received at the concerned Police Station from the petitioner after grant of bail to respondent no. 2.

21. This Court is conscious of the nature of allegations and the tender age of the survivor child. However, bail once granted cannot be cancelled merely on the ground of seriousness of the allegations. The survivor child, her mother and brother had already been examined before grant of bail to respondent no. 2. The learned Trial Court has also imposed conditions upon respondent no. 2 that he shall not reside within five kilometres of the residence of the survivor child and shall not contact her, her family members or the prosecution witnesses.

22. So far as the contradictions and improvements in the testimonies of PW-1, PW-2 and PW-3 are concerned, the same are not required to be examined by this Court at this stage. The evidentiary value of their testimonies shall be considered by the learned Trial Court at the appropriate stage. Any observation in this regard may prejudice either of the parties during trial.

23. In the facts of the present case, this Court does not find any such circumstance which warrants cancellation of bail already granted to respondent no. 2. The apprehension expressed on behalf of the petitioner has to be considered in the light of the fact that the material prosecution witnesses have already been examined and no complaint regarding any subsequent



threat, intimidation or interference by respondent no. 2 has been brought on record. The conditions imposed by the learned Trial Court also sufficiently safeguard the interest of the survivor child and the prosecution.

24. Keeping in view the settled principles governing cancellation of bail, this Court finds no perversity or illegality in the impugned order dated 30.08.2024 which would warrant interference by this Court. Accordingly, no ground is made out for cancellation of bail granted to respondent no. 2.

25. The present petition, along with pending application(s), if any, is accordingly dismissed.

26. Nothing observed herein shall be construed as an expression on the merits of the case pending before the learned Trial Court.

27. Copy of the order be sent to the learned Trial Court for information.

28. The order be uploaded on the website *forthwith*.

MADHU JAIN, J

AUGUST 18, 2026/Av