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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of Decision: 20th August, 2026

CNR No. DLHC010326572026

+ **CRL.M.C. 5199/2026 & CRL.M.A. 21818/2026 & CRL.M.A. 21819/2026**

ASHWANI @ AASU AND ORS.

.....Petitioner

Through: Mr. Jitendra Sethi, Senior Advocate
with Mr. Hemant Gulati, Mr. Shobhit
Dimri, Mr. Divyam Gaur, Advocates.

versus

STATE NCT OF DELHI

.....Respondent

Through: Mr. Raj Kumar, APP with SI Sonu.

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T (oral)

1. The point raised in the present petition is a very short one.
2. The petitioner is facing trial for committing offences under Sections 376/323/506/34 IPC in FIR No. 13/2017, registered at PS Bharat Nagar.
3. Learned Trial Court had, on one earlier occasion, dismissed the application of the accused, whereby he had sought recalling of prosecutrix. Such order dated 30.07.2022 was assailed by the accused before this Court and this Court, keeping in mind the seriousness of the offences and in the interest of justice, granted one opportunity to accused to cross examine her.
4. After the abovesaid order dated 07.09.2022, the matter was taken up on several occasions by the learned Trial Court. Copies of all such order-sheets have been placed on record and it is noticed that on most of such dates, there was no inaction or default from the side of the defence. Reference be made to order-sheets dated 10.10.2022, 21.12.2022, 02.06.2023, 09.08.2023, 21.10.2023, 30.11.2023, 12.04.2024, 30.08.2024, 13.01.2025, 24.03.2025, 08.08.2025, where on some occasions, either presiding officer was on leave or



the prosecutrix was not present in the Court.

5. Undoubtedly, on 18.01.2024, there was a request for adjournment from the side of defence but fact remains that such request was acceded to.

6. When the matter was taken up by learned Trial Court on 29.01.2026, such opportunity was closed. On said date, the prosecutrix was present, *albeit*, there was request for adjournment as defence counsel was not available, being indisposed.

7. When accused prayed for one more opportunity, his request was declined on 30.01.2026.

8. It is in the abovesaid backdrop that the present petition has been filed seeking one opportunity to cross examine her.

9. The next date before the learned Trial Court is 29th instant.

10. When the matter was taken up on the last date, the Court had inquired about the availability of the prosecutrix for the abovesaid next date of 29.08.2026 and it is informed that the witness is available.

11. Learned APP for the State, however, submits that the petitioner has taken the things for granted and once an opportunity had been granted to him by this Court, it should have been ensured that when the prosecutrix was present, she was duly cross examined.

12. Mr. Jitender Sethi, learned Senior counsel for petitioner, on instructions, assures that on the next date of hearing i.e. on 29.08.2026 if the prosecutrix appears, they would cross-examine her and such cross-examination would be completed and concluded, same day itself. He submits that the petitioner would not seek any further opportunity in this regard and is also ready to abide by any condition to be imposed upon him. He reiterates that on various previous occasions, there was no inaction on his part and the delay has taken place primarily for the reason that the prosecutrix herself had not appeared before the



learned Trial Court and the Trial Court had to even issue *Bailable Warrants* quaher. He states that on 29.01.2026, there was no deliberate intent from their side and the defence counsel, himself, was unwell and his medical was also placed on record.

13. Keeping in mind the overall facts of the case and without going deeper into the merits of the case, petitioner is granted one last and final opportunity to conclude the cross-examination of prosecutrix on the abovesaid next date i.e. 29.08.2026. The last and final opportunity is being given for the reason that offences are serious and grave and if opportunity is declined, it might cause prejudice to defence. Nonetheless, it is made clear that accused shall not be permitted to seek any further opportunity.

14. The concerned IO shall duly intimate about the order of this Court to the concerned prosecutrix. It will be also open to the learned Trial Court to send formal summons to her, so that she can appear on the abovesaid date and is further cross examined by the defence.

15. Petitioner would, however, bear cost of Rs. 10,000/- . Such cost would be payable to the concerned prosecutrix on abovesaid date. In case, she refuses to accept the same, it be deposited in the account of District Legal Services Authority (DLSA) of concerned District.

16. Petition stands disposed of in aforesaid terms.

17. Pending applications also stand disposed of.

18. A copy of this order be sent to learned Trial Court for information.

19. A copy of this order be given *dasti* under the signatures of the Court Master.

(MANOJ JAIN)
JUDGE

AUGUST 20, 2026/sw/sa