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

CNR No. DLHC011089242025

+ **BAIL APPLN. 224/2026**

HIMANSHU AGGARWAL

.....Petitioner

Through: Mr. Vivek Kataria and Ms. Ruhi Saxena, Advocates for Applicant/accused.

versus

THE STATE GOVT. OF NCT OF DELHI

.....Respondent

Through: Mr. Naresh Kumar Chahar, APP for State.

Ms. Tanya Agarwal, Mr. Mohd. Bilal and Mr. Vishal Maurya, Advocates for R-2/ prosecutrix.

W/SI Karishma, P.S: Dwarka South.

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDR KUMAR KAURAV

ORDER

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16.09.2026

1. The application filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 ('BNSS') seeks grant of regular bail in connection with FIR No. 273/2025, registered at PS Dwarka South, Delhi, for offences under Sections 64(1)/123 of the Bharatiya Nyaya Sanhita, 2023 ('BNS').

2. The prosecution case is that the prosecutrix, aged about 25 years then, had taken a flat at Sohna, Haryana, on rent from the applicant. It is alleged that on 22.06.2025, on the pretext of shifting her to another accommodation, the applicant brought her to Dwarka and stating that he had forgotten the keys, got a room booked in Hotel Airport View, where, after consuming the



food and water brought by him, she felt dizziness, became semi-conscious and was subjected to rape. On regaining consciousness, she found her pant removed and the applicant absent from the room, whereafter she came down to the reception and informed the police. The chargesheet was filed on 19.08.2025.

3. Learned counsel appearing for the applicant submits that the applicant has been falsely implicated and that the prosecutrix had willingly joined his company and stayed with him in the hotel. It is further submitted that the evidence of the prosecutrix has already been recorded and she has been discharged. It is further stated that the investigation stands completed and that the applicant, who has no previous criminal involvement, has already suffered almost one year and three months of incarceration. It is also urged that except a single bruise on her thigh, there is no injury substantiating forceful intercourse or resistance.

4. The aforesaid submissions are opposed by learned APP for the State as well as learned counsel for the complainant. It is stated that the allegations are serious in nature. It is submitted that she has supported the said version of the FIR in her statement under Section 183 of the BNSS and that the report of the Forensic Science Laboratory (FSL) *qua* the biological exhibits, as per the status report, is still awaited.

5. This Court, on 20.08.2026, taking note of the order dated 03.08.2026 passed by the Trial Court, found that on the ground of continuous incarceration and non-cooperation by the victim, the applicant should be enlarged on bail, but deferred the hearing to enable her to appear for recording of her statement. Her statement has since been recorded on 07.09.2026 and she has been discharged.



6. Though her statement supports the case of the prosecution, the FSL report dated 27.11.2025, upon the chemical examination of the exhibits, does not *prima facie* support any intoxicated substance in the blood of the victim, as under:

“Results of Examination Report

On Chemical, TLC, GC-HS & GC-MS examination, ethyl and methyl alcohol, alkaloids, barbiturates and tranquilizers could not be detected in exhibits ‘2A’, ‘2B’, ‘4’ & ‘5’. After the examination, the remnants of the exhibits have been sealed with the seal of “S.C. F.S.L. Delhi.”

7. In ***Dataram Singh v. State of U.P.***,¹ the Supreme Court reiterated that grant of bail is the rule and its refusal an exception, the presumption of innocence continuing to operate until guilt is established in accordance with law.

8. The parameters governing the grant of bail have also been succinctly laid down in the case of ***Prasanta Kumar Sarkar v. Ashis Chatterjee***,² wherein, it was held that the Court must have regard to the existence of a *prima facie* case, the nature and gravity of the accusation, the severity of the punishment, the danger of absconding, the likelihood of tampering with evidence or influencing witnesses and the antecedents of the accused.

9. The Supreme Court in ***Sanjay Chandra v. CBI***,³ has further observed that the object of bail is to secure the appearance of the accused at his trial and that pre-trial detention should not assume a punitive character. These observations were expounded as follows:

“21. In bail applications, generally, it has been laid down from the earliest times that the object of bail is to secure the appearance of the accused person at his trial by reasonable amount of bail. The object of bail is

¹ (2018) 3 SCC 22

² (2010) 14 SCC 496

³ (2012) 1 SCC 40



neither punitive nor preventative. Deprivation of liberty must be considered a punishment, unless it is required to ensure that an accused person will stand his trial when called upon. The courts owe more than verbal respect to the principle that punishment begins after conviction, and that every man is deemed to be innocent until duly tried and duly found guilty.”

10. More recently, in **Satender Kumar Antil v. CBI**,⁴ it has been emphasised that prolonged incarceration pending trial, where the trial is not likely to conclude within a reasonable period, has to be viewed in the light of Article 21 of the Constitution.

11. Upon perusal of the deposition of the prosecutrix, certain particulars stated therein do not find mention in her complaint or statement under Section 183 BNSS. FSL report also does not corroborate the allegation of intoxication. These aspects are matters for trial. The prosecutrix has also not cooperated in the progress of the trial, having failed to furnish her address and appear despite service. The applicant has remained in custody since 23.06.2025, the investigation is complete and the prosecutrix stands examined and discharged. The trial is unlikely to conclude in the near future. In the circumstances, the applicant is directed to be released on regular bail, subject to such terms and conditions as may be imposed by the concerned Trial Court.

12. Nothing stated, hereinabove, shall be construed as an expression on the merits of the case.

13. The application stands disposed of.

PURUSHAINDR KUMAR KAURAV, J
SEPTEMBER 16, 2026/aks/hr

⁴ (2022) 10 SCC 51