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

+ **BAIL APPLN. 427/2025 & CrI.M.A. 3046/2025**

FIROJ

.....Petitioner

Through: Ms. Seema Misra & Ms. Vanshita
Gupta, Advocates

Versus

STATE OF NCT OF DELHI

.....Respondent

Through: Mr. Utkarsh, Additional Public
Prosecutor for Respondent-State with
SI Pooja Saraswat

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

15.04.2025

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1. The second Bail Application under Section 439 of the Code of Criminal Procedure, 1973 (*hereinafter referred to as "Cr.P.C."*) read with Section 439 of Bhartiya Nagrik Suraksha Sanhita, 2023 has been filed by the Applicant seeking regular Bail in FIR No. 351/2022, under Sections 376/363/366A of the Indian Penal Code, 1860 (*hereinafter referred to as "IPC"*) and Section 6 of Prevention of Children from Sexual Offences Act, 2012 (*hereinafter referred to as "POCSO"*), registered at Police Station Tigri, Delhi.

2. *It is submitted in the Bail Application* that the Applicant and the Complainant of the FIR, who is about three years younger to the Applicant, were friends as they lived in same neighborhood and studied in neighboring schools and would talk on phone regularly. The Complainant's mother did not like their friendship, about which the Complainant had conveyed to the



Applicant and she also confided in the Applicant the abuse and harassment she faced at her home.

3. On 21.11.2021, the Complainant left her home and called the Applicant telling him that she was leaving and asked him to rescue her. The Applicant requested her to go back home but she refused to return home. She threatened to harm herself if the Applicant forced her to go back home.

4. The mother of the Complainant on 25.11.2021 registered a missing Complaint of her daughter. FIR No. 463/2021, under Section 363 IPC was registered at Police Station Tigri against unknown persons.

5. In the interim, the Applicant convinced the Complaint to return home on 10.12.2021, as he had got to know that the Police was looking for him. The Applicant and the Complainant came to Delhi from Faridabad with the Police and were taken to Police Station Tigri. The Applicant was detained and even beaten in the Police Station.

6. On 10.12.2021, the Complainant's mother reached Police Station and she met the Complainant but there was a disagreement between the Complainant and her mother, as her mother wanted the Complainant to falsely implicate the Applicant. The Complainant refused to accompany her mother for medical examination. The Complainant was taken to AIIMS on 10.12.2021 at about 07:00 AM and her MLC No. 103321/2021 was prepared, though she refused for internal medical examination. She was then sent to Prayas Children Home on the same date, as she had refused to accompany her mother.

7. On 13.12.2021, she was produced before the Court of learned MM where her statement under Section 164 Cr.P.C. was recorded, wherein she categorically stated that she had willingly gone with the Applicant because



of the violence she was facing at home at the hands of the family members. She further stated that they had stayed together and have returned home thereafter. She categorically stated that she had gone of her free will.

8. On 14.12.2021, she was produced before the Child Welfare Committee (CWC), Lajpat Nagar II, South District, New Delhi. The Complainant's parents refused to take her as she did not change her version about the Applicant. Consequently, she was sent to Global Family Charitable Trust, New Delhi by CWC from where she was given to the care of her mother on 31.12.2021.

9. On 03.01.2022, the Complainant's mother filed a Writ Petition (Criminal) 10/2022 wherein the SHO of Police Station Tigri had given an Affidavit that the recovered child was furious with her family members. The mother was trying to pressurize the child for internal examination and to give a statement against the Applicant with whom she was recovered. However, the Child insisted to take back the Complaint against the Applicant. Due to this, the mother of the Complainant refused to accompany her to the hospital. It was further stated that child did not level any allegation regarding kidnapping or rape for marriage, at that time. She was not even ready to change her version against the Applicant and the parents did not claim custody of the child before CWC.

10. The Writ Petition was dismissed as withdrawn on 04.04.2022 on the grounds that the Complainant had been found and on the basis of her statement before the learned MM that she had gone willingly with the Applicant.

11. Thereafter, the Complainant on 09.01.2022 once again left her home with her mother, to falsely implicate the Applicant and reached his home.



The Applicant was not present at home at that time and only his mother was at home. The Complainant's mother arrived shortly with the Police Officials and took the Complainant with her. That night, Complainant repeatedly called the Applicant but the Applicant requested her not to contact him. Even the mother of the Complainant called the Applicant.

12. On 09.01.2022, the Complainant again called the Applicant. Being worried that she would again get him into trouble with the Police, the Applicant recorded the call and sent it to his sister Nagma, who made a PCR call and informed the police about the Complainant repeatedly calling her mother.

13. The Complainant's mother was so desperate to put an end to the friendship between her daughter and the Applicant that she filed a handwritten Complaint on 09.01.2022 regarding previous day's incident and falsely accused the Applicant of sexual assault. The Complainant's mother was not able to stop the Complainant from contacting the Applicant and running away from home.

14. It is further submitted that the State has filed the Closure Report and the Protest Petition has been filed in the earlier FIR No. 463/2021, which is pending consideration.

15. The Complainant's mother orchestrated another plan to fabricate the evidence for falsely implicating the Applicant. She filed an Application under Section 190/200 Cr.P.C. and 156(3) Cr.P.C. making false and new allegations for the first time.

16. On the directions of the learned ASJ, FIR No. 351/2022, under Sections 376/363/366 IPC and Section 6 POCSO was registered on 10.09.2022 and the Applicant was arrested on 12.09.2022. The cognizance



was taken against the Applicant on 11.11.2022 and his sister has also been made a co-accused. The Applicant's mother and another sister have been kept in Column No.12.

17. Supplementary charge-sheet dated 26.02.2023 with call detail record and location charts of the Applicant, his mother Munisa and sisters Nasrin @ Nagma and Gulista. It was revealed that Nasrin @ Nagma was not in Delhi on 08.01.2022 and the allegations made against her in the Complaint, are false and fabricated.

18. It is further submitted that the matter was listed for arguments on Charge on 24.04.2023, but a Protest Petition was filed on behalf of the Complainant but subsequently, it was withdrawn after one year on 16.08.2024. The first bail Application of the Applicant was dismissed on 30.05.2023.

19. On 13.09.2024, the learned Counsel for the Applicant conceded to the Charges for the alleged incident of 08.01.2022, even though it is false but claimed that in regard to the allegations for the period 24.11.2021 to 10.12.2021, separate FIR No. 463/2021 was registered at Police Station Tigri and thus, no Charges in respect of earlier incident dated 24.11.2021 could be framed.

20. After much deliberations, the Prosecution eventually conceded in February, 2024 that the present FIR be limited to the incident of 18.01.2022.

21. ***The Bail is sought by the Applicant on the grounds*** that the Charge-Sheet had been filed in 2022, but the Charges have not been framed as yet. The allegations made in the Complaint are false and the accused has not misused the liberty when he was released on interim bail on earlier two occasions. He is a young boy of 22 years of age and had been earning his



livelihood be driving an auto rickshaw. He has clean antecedents and he deserves to be admitted to Bail

22. ***Learned Counsel for the Complainant has vehemently opposed*** the Bail Application on the ground that the Complainant had been allured by the Applicant to accompany him and firstly in November, 2021, when he had sexually exploited her with an intent to marry and the FIR No. 463/2021 was registered. However, during the investigation of the said FIR, the Complainant and her mother were threatened by the Investigating Officer and they were compelled to give a statement of exonerating the Applicant and were also compelled to state that they did not want the medical examination.

23. It is further submitted that pressure made by the Applicant continued and even thereafter, on two occasions he took away the Complainant and a Missing Report was made by Complainant's mother at Police Station Tigri and the Complainant was recovered from the house of the Applicant.

24. It is further submitted that there are numerable call records to corroborate that the Applicant has been regularly threatening the Complainant/ Prosecutrix. It is therefore, submitted that looking at the threats being extended by the Applicant, bail be not granted to him.

25. ***Learned Additional Public Prosecutor for Respondent-State submits*** that in the Status Report details of the incident are given and that the matter is now listed for Arguments on Charge before the learned Trial Court.

26. ***Submission heard and record perused.***

27. Admittedly, the earlier FIR No. 463/2021 was registered on similar allegations of kidnapping and allurement and sexual assault. Pertinently, the Prosecutrix in her statement under Section 1634 Cr.P.C. categorically stated



that she had voluntarily gone with the Applicant. She even refused to go with her mother and was sent to Children's Home by the CWC. The Closure Report has been filed in the said FIR, though the Protest Petition is still pending.

28. In the present case, the incident has happened barely after 1½ month of the first incident and similar allegations have been made. The matter is pending for framing of Charges. The Applicant was arrested on 12.09.2022 and since then he is in judicial custody. The trial is likely to take long time. On earlier two separate occasions, the Applicant has been granted interim Bail of seven days and has duly acted upon the terms of the interim Bail.

29. Considering the totality of the circumstances, the Applicant is admitted to Regular Bail, on the following conditions:-

- a) The Applicant shall furnish a bail bond in the sum of Rs.25,000/- and one surety of the like amount, subject to the satisfaction of the learned Trial Court;
- b) The Applicant shall appear before the Court as and when the matter is taken up for hearing;
- c) The Applicant shall provide mobile number to the IO concerned which shall be kept in working condition;
- d) The Applicant shall not indulge in any criminal activity and shall not communicate with or come in contact with the witnesses including the Prosecutrix;
- e) In case of change of the residential address, the same shall be intimated to this Court and in the Police Station, by the Applicant.
- f) That the Applicant would not enter into the vicinity of



the house of the Prosecutrix or extend any threat or influence her.

30. A copy of this Order be communicated to the concerned Jail Superintendent as well as to the learned Trial Court, for compliance.

31. The Bail Application and pending Application are accordingly disposed of.

NEENA BANSAL KRISHNA, J

APRIL 15, 2025

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