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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 435/2024**
NARENDERPetitioner

Through: Mr. Saket Kumar, Mr. Rajesh Sagar
and Mr. Sarela Ratnam, Advocates.

versus

THE STATE NCT OF DELHIRespondent

Through: Mr. Amit Ahlawat, APP.
ACP Arun Chauhan, AHTU/Crime,
with SI Narender Kumar and SI
Bimla.
Mr. Arjun Malik, Advocate for
prosecutrix.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER
24.04.2025

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1. The present application under Section 439 read with Section 482 of the Code of Criminal Procedure, 1973¹ seeks regular bail in the proceedings arising from FIR No. 736/2015 under Sections 365 of the Indian Penal Code, 1860² and Section 6 Protection of Children from Sexual Offences Act, 2012³ registered at P.S. Old Delhi Railway Station, Delhi.
2. The case of the Prosecution is summarised as follows:
 - 2.1. On 21st November, 2015, DD No. 30B was registered at P.S. Old Delhi Railway Station regarding the disappearance of a young woman "K",

¹ "Cr.P.C."

² "IPC"



aged 20 years. The complaint was subsequently forwarded to the Anti-Human Trafficking Unit⁴ of the Crime Branch vide Complaint Diary No. 4534/DCP/Crime (N) dated 30th November, 2015.

2.2. Acting upon this complaint, a raid was conducted at Village Bitwada, P.S. Budhana, District Muzaffarnagar, Uttar Pradesh. During the raid, the missing girl “K” was recovered from the residence of one Sandeep, a resident of the said village.

2.3. Upon further inquiry, it was disclosed by Sandeep and the recovered girl “K” that she, along with her cousin “S” (aged 19 years), had been kidnapped from Old Delhi Railway Station on 5th October, 2015 by one Arvind and his wife. Based on this information, Arvind was traced and taken into custody for further questioning. Sandeep was also detained for further investigation.

2.4. Following a detailed inquiry, the FIR was registered, and the investigation of the case was transferred to the AHTU, Crime Branch, Rohini, Delhi. Both Sandeep and Arvind, were arrested on 4th December, 2015. Their disclosure statements were duly recorded, and the statement of the victim girl “K” under Section 164 Cr.P.C. was also recorded. The disclosures suggested the existence of a larger human trafficking network involved in abducting women, particularly those seeking employment in Delhi, and selling them for significant sums of money .

2.5. On the basis of the statement of “K”, co-accused Sohanveri and Amreesh were arrested on 18th December, 2015.

2.6. Based on the disclosure made by Arvind, further raids were

³ “POCSO”

⁴ “AHTU”



conducted, resulting in the recovery of a minor girl, “S”, aged 13 years, from the residence of the present Applicant, Narender. In her statement under Section 164 Cr.PC, “S” stated that Arvind and his wife had solemnized her marriage with the Applicant. She further stated that she was first kept at the residence of the Applicant’s maternal uncle for ten days before being shifted to the Applicant’s own house. She alleged that she had been purchased by the Applicant, who thereafter assaulted her and established physical relations without her consent. On the strength of this statement, the Applicant was arrested on 6th December, 2015.

2.7. In view of the aforesaid facts and circumstances, Sections 323/370/363/341/120B/34 IPC and Sections 3 and 4 of POCSO Act were added to the case. Sections 3 and 4 of POCSO Act were subsequently substituted with Section 6 (1) of POCSO Act.

2.8. During investigation, several other girls namely Ms “J” aged 20 years, Ms. “S” aged 19 years, and Ms. “M” aged 30 years, were also recovered at the instance of co-accused Arvind. They were trafficked to Muzaffar Nagar and adjoining areas by the same gang.

2.9. A chargesheet was filed against the accused persons on 27th February, 2016. Upon the arrest of a seventh accused, Ravi, a supplementary chargesheet was filed on 11th May, 2016.

2.10. Accused Sandeep unlawfully purchased and confined the girl “K” in his custody against her will, subjected her to physical and sexual assault, and established physical relations with her, without her consent.

2.11. Charges were framed against all the accused persons on 4th July, 2017, under Sections 323/354/363/365/366/368/370/328/372/373/376/506/120B/34 IPC and Section 6(1) POCSO Act.



2.12. Four co-accused persons, namely Kishan Pal, Sohan Biri, Amrish, and Ravi Pandit, were granted bail by the Trial Court *vide* orders dated 2nd March, 2016, 8th July, 2016, 18th March, 2017, and 15th September, 2021, respectively.

2.13. The allegations against the present Applicant are grave and serious. Two previous applications seeking bail, filed by the Applicant before the Trial Court on 30th March, 2022 and 15th March, 2023, were dismissed. Both applications primarily relied upon the length of the Applicant's custody as the ground for seeking bail.

3. In support of the present application, counsel for the Applicant submits the following grounds for grant of bail:

3.1. The Applicant was arrested on 6th December 2015. The charge sheet was filed on 29th February, 2016, and charges were framed on 4th July, 2017. Since then, the Applicant has been in custody as an undertrial. According to the nominal roll, as on 20th February, 2024, the Applicant has already undergone a period of custody totalling 8 years, 2 months, and 15 days. It is submitted that such prolonged pre-trial detention amounts to a violation of the Applicant's fundamental right to life and personal liberty under Article 21 of the Constitution of India and, on this ground alone, the Applicant is entitled to be released on bail.

3.2. The Supreme Court has consistently held that inordinate delay in trial and prolonged incarceration constitute valid grounds for grant of bail. Despite specific directions from this Court, there has been no meaningful progress in the trial. The delay cannot be permitted to defeat the constitutional safeguards extended to an accused person.

3.3. On merits, it is argued that the Applicant has been falsely implicated



in the case. He is innocent and has not committed the offences alleged in the impugned FIR.

3.4. Furthermore, the other co-accused persons, namely Kishan Pal, Sohan Biri, Amresh, and Ravi Pandit, have already been granted bail. Therefore, the Applicant is entitled to be granted bail on the ground of parity.

3.5. Additionally, the age of the Prosecutrix at the time of the alleged incident was over 24 years and, therefore, the provisions of the POCSO Act have been wrongly invoked in this case. To support this contention, reliance is placed on the testimony of the Prosecutrix's father.

4. On the other hand, Mr. Amit Ahlawat, APP for State as well as Mr. Arjun Malik, who appears for the Prosecutrix, strongly oppose the bail application. They submit that the allegations against the Applicant pertain to grave and heinous offences involving human trafficking, sexual assault, and the exploitation of a minor girl who was merely 13 years old at the time of the incident. It is argued that the nature and gravity of the offences militate strongly against the grant of bail, notwithstanding the length of incarceration. Mr. Ahlawat does not dispute the duration of the Applicant's custody but contends that the delay in trial is not attributable to the Prosecution. On the contrary, it is submitted that the State has made all reasonable efforts to expedite proceedings. He further points out that offences under Section 6 of the POCSO Act carry a minimum sentence of 20 years, which may extend to life imprisonment, and thus must be treated with the seriousness they command. Mr. Ahlawat also highlights that the Prosecutrix has provided a clear and consistent deposition supporting the Prosecution's case. In these circumstances, it is argued that no exceptional or compelling ground has been made out to justify the grant of bail at this



stage.

5. The Court has carefully considered the submissions advanced on behalf of both sides. The Prosecution's case pertains to the commission of aggravated penetrative sexual assault upon a minor, along with charges involving human trafficking, sexual abuse, and the exploitation of a vulnerable child. These are heinous offences, carrying a minimum sentence of twenty years, extendable to life imprisonment. The seriousness of these charges, as rightly emphasized by the Prosecution, cannot be understated.

6. That said, the Court is also mindful of the Applicant's prolonged incarceration as an undertrial. Conscious of the mandate under Article 21 of the Constitution, which guarantees the right to life and personal liberty, this Court, through a series of earlier orders, had directed the Trial Court to expedite proceedings. In this context, it is relevant to refer to an earlier order passed by this Court, which reads as under:

"1. The concerned Investigating Officer is not present today, and is stated to have been on leave for the last four dates.

2. The ACP, AHTU / Crime Branch is directed to be present in Court before the next date of hearing.

3. The Applicant has highlighted the delay in conclusion of the trial and the fact that he has been in custody for nearly ten years. Taking note of this issue, this Court, on 14th November, 2024 and 25th November, 2024, had directed the Trial Court to submit a report explaining the reasons for delay in trial, and the approximate time required for completion of trial.

4. In compliance with the said directions, the Trial Court had submitted a report dated 12th December, 2024, indicating that there are a total of 8 accused persons, of which three are in judicial custody, three are on bail, one is a proclaimed offender and one is absconding. The Trial Court further noted that there are total 8 victims, of which 7 have been examined, and one has not been appearing.

5. In the said report, the Trial Court had also indicated that an endeavour shall be made to conclude the trial within a period of six months.

6. Counsel for the Applicant points out that there has not been much



change in the status of the trial since the last report sent by the Trial Court, inasmuch as only one more witness has been examined since.

7. *In light of the foregoing, the Trial Court is directed to furnish a fresh status report abating the status of the approximate time required for completion of trial.*

8. *Further, the Trial Court is directed to give bloc dates in the matter so that the trial can be concluded expeditiously, within the time frame estimated in the previous report dated 12th December, 2024.*

9. *Renotify on 24th April, 2025.”*

7. In compliance with the aforementioned order, the Trial Court has furnished a compliance report dated 22nd April, 2025, indicating that all efforts are being made to conclude the trial in an expeditious manner. It is stated that only five prosecution witnesses remain to be examined. The Trial Court has further indicated that steps are being taken to conclude the trial within the timeline previously committed, and *en bloc* will also be given to ensure the timely completion of the proceedings.

8. In light of the aforesaid development, in the opinion of the Court, the concern regarding delay in trial now stands adequately redressed. The Court expects that the Trial Court shall conclude the trial within the stipulated timelines.

9. On the merits, it is well-settled that a Court considering a bail application does not engage in a detailed analysis of evidence or conduct a mini-trial. However, for the limited purpose of assessing a *prima facie* case, a perusal of the Prosecutrix's deposition reveals that she has consistently supported the case of the Prosecution, and made specific allegations of sexual exploitation at the hands of the Applicant. As for the challenge to her age, the Prosecution has placed on record a birth certificate issued under Section 12 of the Registration of Births and Deaths Act, 1969, by the competent authority in West Bengal. The certificate indicates that the



Prosecutrix was 15 years old at the time of the alleged incident. There is no material on record at this stage to dislodge this *prima facie* proof of minority.

10. This is, therefore, not a case resting on doubtful or weak evidence. On the contrary, the material on record suggests the direct involvement of the Applicant in the commission of the offence. The possibility of threats to the Prosecutrix or other similarly situated victims, who are stated to have been trafficked and forcibly married, cannot be ruled out. Grant of bail in such circumstances could jeopardize their safety and well-being.

11. The Applicant's plea for bail on the ground of parity is also misconceived. The co-accused who have been granted bail are either charged with lesser offences or are implicated for their ancillary roles. The present Applicant, however, faces serious and direct allegations of sexual assault and trafficking, distinguishing his case from that of the others.

12. In view of the gravity of the charges, the consistency of the Prosecutrix's testimony, the status of the evidence on record, and the potential threat to witnesses, this Court does not find any compelling ground to enlarge the Applicant on bail. The application is accordingly dismissed.

13. For the foregoing reasons, the present bail application is dismissed.

SANJEEV NARULA, J

APRIL 24, 2025

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