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

+ **BAIL APPLN. 497/2025**

HIMANSHU DONTI

.....Applicant

Through: Mr. Lakshay Yadav,
Advocate.

versus

STATE NCT OF DELHI

.....Respondent

Through: Mr. Aashneet Singh, APP
for the State with Insp.
Vipin Kumar, North West
District and Insp. Sanjay
Kumar, PS Sultanpuri.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

20.03.2025

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1. The present application is filed seeking regular bail in FIR No. 791/2017 dated 09.11.2017 registered at police station Sultanpuri for offence under Section 365 of the Indian Penal Code, 1860 ('IPC'). The charge sheet has been filed in the present case under Sections 365/364A/302/411/120B/201/34 of the IPC.
2. The applications seeking regular bail filed by the applicant on earlier occasions were dismissed and the last application filed by the applicant being BAIL APPL. 1882/2024 was dismissed as withdrawn by order dated 12.08.2024 passed by this Court while noting that 25 out of 40 witnesses have been examined. Liberty was given to the applicant to file application afresh in case the trial is delayed.
3. On earlier occasions also the applicant was permitted to withdraw the bail application. This Court *vide* order dated 30.01.2024 noted that in case the trial is not concluded within a



period of six months, the applicant will be at liberty file a fresh application. The fresh bail application filed subsequently was withdrawn by the applicant on 12.08.2024.

4. It is pointed out that the trial has still not concluded and the applicant is in custody from almost last 7 years. However, it cannot be denied that pursuant to the order dated 12.08.2024, 10 more witnesses have been examined.

5. The Hon'ble Apex Court, recently, in the case of ***X v. State of Rajasthan & Anr. : 2024 INSC 909***, in a challenge to the order passed by the High Court of Judicature for Rajasthan whereby the bail application filed by the accused was allowed observed as under:

“14. Ordinarily in serious offences like rape, murder, dacoity, etc., once the trial commences and the prosecution starts examining its witnesses, the Court be it the Trial Court or the High Court should be loath in entertaining the bail application of the accused.

15. Over a period of time, we have noticed two things, i.e., (i) either bail is granted after the charge is framed and just before the victim is to be examined by the prosecution before the trial court, or (ii) bail is granted once the recording of the oral evidence of the victim is complete by looking into some discrepancies here or there in the deposition and thereby testing the credibility of the victim.

16. We are of the view that the aforesaid is not a correct practice that the Courts below should adopt. Once the trial commences, it should be allowed to reach to its final conclusion which may either result in the conviction of the accused or acquittal of the accused. The moment the High Court exercises its discretion in favour of the accused and orders release of the accused on bail by looking into the deposition of the victim, it will have its own impact on the pending trial when it comes to appreciating the oral evidence of the victim. It is only in the event if the trial gets unduly delayed and that too for no fault on the part of the accused, the Court may be justified in ordering his release on bail on the ground that right of the accused to have a speedy trial has been infringed.”

6. As of today, only 5 witnesses are left to be examined. The



trial is at its fag end. Therefore, this Court does not find it apposite to consider the present bail application.

7. In view thereof, the petition stands dismissed.

8. The learned Trial Court is once again requested to conclude the recording of evidence expeditiously, preferably within a period of six months.

AMIT MAHAJAN, J

MARCH 20, 2025

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