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

+ **BAIL APPLN. 534/2025**

BISHAMBER @ ROCKY

.....Applicant

Through: Mr. Rahul Pal, Mr. Ashok
Kumar Mishra, Mr.
Akshay Kumar Sharma
and Mr. Manoj Kumar
Dubey, Advocates.

versus

STATE GNCT OF DELHI

.....Respondent

Through: Mr. Ajay Vikram Singh,
APP for the State with SI
Jyoti, PS Maurice Nagar.
Mr. Rajbir Bansal,
Advocate for the Victim
(through VC).

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

28.05.2025

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1. The present application is filed seeking regular bail in FIR No. 72/2024 dated 29.04.2024, registered at Police Station Maurice Nagar for offences under Section 376 of the Indian Penal Code, 1860 ('IPC') and Section 6 of the Protection of Children from Sexual Offences Act, 2012 ('POCSO').

2. The FIR was registered on a complaint given by the victim thereby stating that she had friendly relations with the applicant from the month of August, 2023 and that she used to meet with the applicant in a public park. It is alleged that in September, 2023, when the victim went to the park with the applicant, he established sexual relations with the victim without her consent.



Thereafter, on multiple occasions, the applicant established sexual relations with the victim on the false pretext of marriage. It is alleged further that in the month of November, 2023, the applicant established physical relations with the victim for the last time whereafter the parents of the victim came to know about the relationship between the applicant and the victim. It is alleged that when the applicant subsequently refused to marry the victim, the same led to the filing of a complaint which culminated into the registration of the subject FIR.

3. The learned counsel for the applicant submits that the applicant has been falsely implicated in the present case. He submits that even as per the case of the victim, she was in a consensual relationship with the applicant. He submits that barring the statement of the victim, there is no evidence to suggest that the applicant has established sexual relation with the victim. He submits that no medical examination has ever been conducted in the present case as the same had been refused by the victim. He lastly submits that the victim, even as per the case of the prosecution, was more than 17 years of age at the time of incident. He consequently prays that the applicant be enlarged on bail.

4. *Per contra*, the learned Additional Public Prosecutor for the State vehemently opposes the grant of any relief to the applicant. He submits that the victim, in her statement under Section 164 of the Code of Criminal Procedure, 1973 ('CrPC'), maintained the allegations levelled against the applicant. He submits that no corroboration of such allegation is required and the conviction can solely be based on the statement of the victim.

5. Undisputedly, there has been a delay in registration of the



FIR. Even as per the case of the victim the last incident of sexual intercourse happened in the month of November, 2023 whereas the FIR was registered much later on 29.04.2024.

6. The victim has not disputed that she was in a consensual relationship with the applicant. She has however claimed that the same was established on the false pretext of marriage. Since the victim is stated to be less than 18 years of age at the time when the incident took place, the provisions of POCSO had also been invoked in the present case.

7. In terms of Section 29 of the POCSO Act, in case the accused is charged for offences under the POCSO Act, it is to be presumed that such person has committed the offence unless the contrary is proved.

8. However, at this stage it cannot be denied that the allegations of the applicant establishing sexual relation with the victim is based only on the statement of the victim and as noted above, there has been a considerable delay in giving the complaint for the same. The victim claimed that sexual relations were established in the month of September, 2023 in a public park. The allegation of forceful sexual assault in a public park at this stage appears improbable.

9. The applicant is in custody since 29.04.2024 and the material witnesses have already been examined. *Prima facie* it appears that the applicant and the victim were in a consensual relation. For this reason, even though the victim is not 18 years of age, the benefit of delayed reporting of the offence cannot be denied to the applicant especially when the complainant herself stated that she was more than 17 years of age at the time of incident. Moreover, no evidence at this stage has been brought



forth to corroborate sexual relations.

10. Consequently, without commenting further on the merits of the case as the same is a matter of trial, I am satisfied that the applicant has made out a case for grant of regular bail.

11. In view of the above, the applicant is directed to be released on bail on furnishing a personal bond for a sum of ₹20,000/- with two sureties of the like amount, subject to the satisfaction of the learned Trial Court, on the following conditions:

- a. The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case or tamper with the evidence of the case, in any manner whatsoever;
- b. The applicant shall under no circumstance leave the country without the permission of the learned Trial Court;
- c. The applicant shall not reside within 5 kms radius of the locality where the complainant/victim resides;
- d. The applicant shall appear before the learned Trial Court as and when directed;
- e. The applicant shall provide the address where he would be residing after his release and shall not change the address without informing the concerned IO/ SHO;
- f. The applicant shall, upon his release, give his mobile number to the concerned IO/SHO and shall keep his mobile phone switched on at all times.

12. In the event of there being any FIR/DD entry/complaint lodged against the applicant, it would be open to the State to seek redressal by filing an application seeking cancellation of bail.

13. It is clarified that any observations made in the present



order are for the purpose of deciding the present bail application and should not influence the outcome of the trial and also not be taken as an expression of opinion on the merits of the case.

14. The bail application is allowed in the aforementioned terms.

AMIT MAHAJAN, J

MAY 28, 2025

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