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

+ **BAIL APPLN. 559/2025**

PUSHKAR

.....Petitioner

Through: **Mr. Ravi Dalal & Ms. Aditi Singh,**
Advocates

Versus

THE STATE OF NCT DELHI

.....Respondent

Through: **Mr. Yudhvir Singh Chauhan,**
Additional Public Prosecutor for
Respondent-State with SI Sharmila

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

01.05.2025

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1. The First Bail Application under Section 483 of The Bhartiya Nagrik Suraksha Sanhita, 2023 / Section 439 CPC has been filed by the Applicant seeking Bail in FIR No. 252/2023, under Sections 363/376/377/506 IPC read with Section 6 of Prevention of Children from Sexual Offences Act, 2012, registered at Police Station Kotla Mubarakpur, New Delhi.
2. It is submitted in the Application that the accused is in judicial custody since 15.07.2023. He is 35 years old and was residing with his wife children and handicapped father, who has 50% disability and is unable to do daily routine work. Brother of the Applicant met with an accident on 09.10.2024 and received serious injuries and is in coma and there is no improvement in his medical condition. The wife of his brother is an illiterate woman and does not know about treatment and transfer of patient from one



hospital to another. The family members of the Applicant are unable to handle the present situation and bear financial and mental pressure.

3. It is submitted that presence of the Applicant is required to take care of his father and brother. He was granted interim bail for 30 days by the learned Trial Court *vide* 13.11.2024 and he had duly surrendered on 16.12.2024.

4. As per PCR Report, “*kidnapping wali ki koi baat nahi hui*”. Deposition of the Victim and her Mother has already been recorded and there is no apprehension of threatening them or tampering with the evidence. There are allegations of threat by showing knife and making her drink a cold drink but there is no recovery of knife or the cold drink neither from the Applicant or from the place of incident. There are material contradictions in the testimony of the Prosecutrix and her mother.

5. Furthermore, the allegation of kidnapping of the victim from the stairs of Mandir which is surrounded with shops, is not made out as no public witness has been made witness to the incident of kidnapping.

6. Reliance has been placed upon Babu Singh Vs. State of U.P (1978) 5 SCC 579 to submit wherein it has been observed that gravity of the offence has to be considered and tested on the touchstone of securing the presence of the accused during the trial. The bail can be denied only when there is reasonable evidence in the previous record of the accused that he frustrate trial by absconding or tampering.

7. Reliance has also been placed on Hussainara Khatoon and Others Vs. Home Secretary, State of Bihar, 1979 AIR 1369 wherein the Apex Court has given factors to determine whether an accused has got roots in the community.



8. Reliance has been placed on Sanjay Chandra vs. Central Bureau of Investigation (2012)1 SCC 49, wherein it was observed that objective of bail is neither punitive nor preventive. Deprivation of liberty must be considered a punishment, unless it can be required to ensure that an accused person will stand his trial when called upon.

9. ***Learned Counsel for the Applicant*** submits that Applicant is ready to join investigation and he undertakes to extend full cooperation to the Investigating Agency and shall appear before the Court as and when directed.

10. *Learned Additional Public Prosecutor for Respondent-State* has placed before this Court Status Report dated 01.03.2025, which is taken on record.

11. In the Status Report it is stated that as per the statement of the mother of the Prosecutrix / victim, she was allegedly taken away by the accused to the Railway Line near Slum Built Sewa Nagar Kotla Mubarakpur. When her daughter shouted, another man who was sitting there, caught the accused and called the police. The Police brought the victim to the Police Station where she stated that the accused had kissed her and bit her on her breast and put his finger in her private part. On the statement of Victim's mother, the FIR was registered.

12. The Bail is resisted on the ground that the victim was barely seven year old child. The medical examination of the victim and the accused was conducted at AIIMS Hospital and blood samples were collected. The clothes worn by the victim and blood sample of the accused have been sent to FSL for DNA matching. During investigation, school records of the victim has been verified.



13. ***Submissions heard and record perused.***

14. Serious allegation of committing rape and molestation of the child, who was barely seven years old, has been made against the Applicant. Deposition of only the Investigating Officer and two police officers remain to be recorded. Trial is almost at the fag end. Considering the gravity of the offence and the compelling circumstances, no case is made out for grant of bail, which is hereby dismissed.

NEENA BANSAL KRISHNA, J

MAY 1, 2025

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