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

+ **BAIL APPLN. 590/2025**

SH. AJIT KUMAR MISHRA @ AJAYPetitioner
Through: **Mr. Suraj Prakash Sharma, Adv.**

versus

THE STATE OF NCT OF DELHIRespondent
Through: **Mr. Sanjeev Sabharwal, APP for the State.**
SI Renu, PS Wazirabad.
Mr. Harsh Prabhakar, Adv.
(DHCLSC), Mr. Dhruv Chaudhry, Mr. Shubham Sourav, Advs.

CORAM:
HON'BLE MR. JUSTICE AMIT SHARMA

ORDER
27.05.2025

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1. This hearing has been done through hybrid mode.
2. The present second application under Section 483 of the BNSS read with Section 439 of the CrPC has been filed seeking regular bail in case FIR No. 710/2020, under Sections 376/373 of the IPC and Section 6 of the POCSO Act, registered at PS Wazirabad. The previous application filed by the present applicant was dismissed as withdrawn *vide* order dated 04.04.2024 in BAIL APPLN. 269/2020.
3. The case of the prosecution as per the status report dated 04.03.2025 authored by SHO, PS Wazirabad, Delhi, is as under: -

“Most respectfully, It is submitted that the above mentioned case was registered on the Complaint of complainant "Shamsher Singh" D/o "Abdul Shakur Shah" R/o As per FIR, wherein he stated that



his daughter "R" age about 15 year was kidnapped by someone. On that complaint above mentioned case FIR was registered and investigation was taken up by ASI Mukesh. All the messages were flashed. During the investigation, kidnapped girl was traced on 01.01.21 from Mangolpuri. Counselling was provided to the victim. Medical examination of-the victim was got conducted vide MLC No. 01/21 at AAA Hospital, Delhi in which doctor stated victim is carrying 27 weeks 1 day of pregnancy.

During investigation, Statement U/s 164 Cr.P.C of the victim was recorded in which she sated that She left her house on 3G Dec 2020 with her own-will. She went with Ajeet to whom She loves' and she wants to marry with accused. During investigation, Accused Ajit Kumar Mishra@ Ajay S/o Anil Kumar Mishra R/o 47. Gali No. 05 Sangam Vihar Wazirabad, Delhi was arrested, medical examination of accused has been conducted vide MLC No.08/21 and blood sample has been collected. After medical examination potency test has also been conducted in which doctor opine that "I am of the opinion that there is nothing to suggest that the person examined is not capable of performing sexual intercourse". Accused send to judicial custody.

During further course of investigation, Site plan has been prepared at the instance of victim. victim was produced before Hon'ble CWC-I Mukherjee Nagar. Age proof of the victim has been verified and victim D.O.B. is 26.12.2005 and at the time of registration of FIR she was 15 years old. Victim delivered child and victim is living in her parental home with her child. chargesheet has been submitted and case is under trail."

4. Learned counsel appearing on behalf of the applicant draws the attention of this Court to the statement of the survivor recorded under Section 164 of the CrPC wherein, she has stated that she had gone with the applicant out of her own will and since she was in love with him, she wanted to marry him. It is further submitted that the testimony of the survivor/PW-1 as well as the father of the survivor, complainant, have been recorded before the learned Trial Court.

5. It is further submitted that the prosecution has cited 22 witnesses in



total, out of which 6 have been examined so far. The applicant has been in custody since 02.01.2021 and has not been previously involved in any other offences. Therefore, no useful purpose will be served by keeping him in custody.

6. Learned APP appearing on behalf of the State, on instructions of the Investigating Officer as well as learned counsel for the survivor appointed by Delhi High Court Legal Services Committee, alongwith survivor and her father, submit that survivor is stated to be 19 years of age now and they have no objection if the present applicant is granted bail.

7. In the statement under Section 164 of the CrPC of the survivor, she has categorically stated that she had left her house with the applicant out of her own free will and she was in love with him and wanted to marry him. It is noted in her testimony recorded before the learned Trial Court that she has not supported the said version and in fact, has stated that the statement before the lady Judge, learned Metropolitan Magistrate, was made by her at the instance of the mother of the applicant. Veracity of these statements will be determined by the learned Trial Court upon conclusion of trial.

8. Public witnesses have been examined. The prosecution has cited 22 witnesses out of which 6 have been examined so far.

9. As per the nominal roll dated 28.02.2025, the applicant has been in custody since 02.01.2021 and he, as on 23.02.2025, had undergone incarceration for 4 years 1 month and 22 days, which comes to around 4 years 5 months.

10. In totality of the facts and circumstances, the present application is allowed and the applicant is directed to be released on bail, on his furnishing a personal bond of Rs. 25,000/- with one surety of like amount, to the



satisfaction of the learned Trial Court/Link Court, further subject to following conditions:-

- i. The applicant shall not leave India without prior permission of the learned Trial Court.
 - ii. The applicant shall intimate the learned Trial Court by way of an affidavit and to the Investigating Officer regarding any change in residential address.
 - iii. The applicant shall appear before the learned Trial Court as and when the matter is taken up for hearing.
 - iv. The applicant is directed to give his mobile number to the Investigating Officer and keep it operational at all times.
 - v. The applicant shall not, directly or indirectly, tamper with evidence or try to influence the witness in any manner.
11. The application is allowed and disposed of accordingly.
 12. Pending applications, if any, also stand disposed of.
 13. Needless to state that, nothing mentioned hereinabove, is an opinion on the merits of the case and any observations made herein are only for the purpose of the present bail application.
 14. Copy of the order be sent to the concerned Jail Superintendent for necessary information and compliance.
 15. Order be uploaded on the website of this Court *forthwith*.

AMIT SHARMA, J

MAY 27, 2025/kr

Click here to check corrigendum, if any