



\$~53

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

+ **BAIL APPLN. 587/2025**

TUSHAR

.....Applicant

Through: Ms. Raveen K. Kashyap,
Mr. Vishal Arun Mishra,
Ms. Jyoti Kashyap and
Ms. Rupali Pawar, Advs.

versus

STATE GOVT OF NCT DELHI THROUGH
SHO

.....Respondent

Through: Mr. Sunil Kumar Gautam,
APP for the State with SI
Vaishali Kaushik (Main
IO) and SI Shweta, PS
Tilak Nagar.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

07.04.2025

%

1. By way of the present application, the applicant seeks regular bail in FIR No. 190/2019 dated 15.04.2019, registered at Police Station Tilak Nagar, for offences under Sections 376/370/506/120B of the Indian Penal Code, 1860.

2. The FIR was registered on a statement made by the prosecutrix, who stated that she left her home without informing her parents on 25.12.2018 and went to her friend's residence. She stated that she lived at a place in Meera Bagh for 15 days and thereafter she went to stay with her friend namely- Payal, who lived with her mother namely- Madhu and her elder sister namely- Jyoti, however there were frequent visits by the other accused persons. It is alleged that there the prosecutrix was made to do household chores for the first 3-4 days, whereafter she was

BAIL APPLN. 587/2025

Page 1 of 5



raped by two – three persons on different dates. It is alleged that she somehow escaped and reached at another acquaintance's place namely–Rani didi, where she got a call from one of the accused persons namely– Vikram, who called her near Dwarka Metro Station, on the pretext of securing a house for her, however, when the prosecutrix reached there, she was apprehended by the accused persons and beaten up, whereupon a call was made on 100 number by Rani didi.

3. During her examination, the prosecutrix claimed that while she was staying in co-accused Payal's house, she was made to indulge in sexual intercourse with different people. She stated that Payal used to stay with her mother, father and brother (applicant). She further stated that co-accused Payal and her mother used to force her into sexual activities and her father was also aware of it.

4. Against the applicant, it is alleged that he was also staying in the same residence as the co-accused Payal where the immoral activities were being carried out.

5. From the statement under Section 164 of the Code of Criminal Procedure, 1973 at this stage, the only allegation against the applicant seems to be that he was also staying in the same house or at best, that he was aware of the immoral activities being carried out.

6. It is not alleged against the applicant that he was also the one who, in any manner, forced the prosecutrix to indulge into immoral activities.

7. The Police has also filed the Status Report verifying the age of the applicant. The record indicates that at the time of registration of FIR, the applicant was 16 years and 2 months old



and was therefore, a juvenile.

8. Undisputedly, in terms of Section 15 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (**JJ Act**), in case a heinous offence is alleged to have been committed by a child who has completed or is above the age of 16 years, the board shall conduct a preliminary assessment with regard to his mental and physical capacity to commit such offence, and may pass an order in accordance with the provisions of Section 18(3) of the JJ Act.

9. Section 18(3) of the JJ Act provides that after the assessment under Section 15, if the Board is of the opinion that the trial against the said child needs to be conducted as an adult, then the Board may order transfer of the trial of the case to the Court having jurisdiction to try such offences.

10. In the present case, the chargesheet has been filed against the applicant treating him as adult.

11. It is submitted by the State that the same was done on the basis of the statement made by the applicant that he was major at the time of registration of the FIR.

12. The Status Report, however, indicates that *prima facie*, the applicant was a minor at the time of registration of FIR.

13. Thus, an order under Section 15 of the JJ Act would also need to be made after conducting preliminary assessment.

14. The documentary evidence indicating the age of the applicant being 16 years and 2 months at the time of registration of the FIR, cannot be ignored. Moreover, as noted above, the allegation against the applicant at this stage seems to be that the applicant was staying in the house with his parents and his sisters, where the offence under The Immoral Traffic



(Prevention) Act, 1956 was being committed. The chargesheet in the present case has already been filed and the applicant is not required for any further investigation. Applicant in in custody since 04.01.2025.

15. In view of the above, the applicant has made out a case for bail and 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:

- (i) 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;
- (ii) The applicant shall under no circumstance leave the boundaries of the country without the permission of the learned Trial Court;
- (iii) The applicant shall appear before the learned Trial Court as and when directed;
- (iv) 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;
- (v) The applicant shall, upon his release, give his mobile number to the concerned IO/SHO and shall keep his mobile phones switched on at all times.

16. 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.

17. It is clarified that the observations made in the present



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

18. The present bail application is allowed in the aforesaid terms.

AMIT MAHAJAN, J

APRIL 7, 2025

'KDK'