



2025:0HC:10305



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

Reserved on: 13.11.2025
Date of Decision: 22.11.2025

+ **BAIL APPLN. 582/2025 & CRL.M.A. 4162/2025 & CRL.M.A. 4163/2025**

RAJESH PUNDHIR @ UMESH PUNDHIRPetitioner

Through: Mr. Bharat Bagga and Mr. Saurav Rana, Adv.

versus

STATE (NCT OF DELHI)Respondent

Through: Mr. Satish Kumar, APP for State with Ms. Upasna Bakshi, Adv. with SI Pinki and SI Rachna

CORAM:
HON'BLE MR. JUSTICE AJAY DIGPAUL

J U D G M E N T

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1. Through the present petition filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023¹ (formerly Section 439 of the Code of Criminal Procedure, 1973²), the petitioner seeks regular bail in proceedings arising from FIR No. 408/2023 registered under Sections 354A of the Indian Penal code, 1860³ and Section 8 of Protection of Children from Sexual Offences Act, 2012⁴ at P.S. Civil Lines.

¹ Hereinafter "BNSS"

² Hereinafter "CrPC"

³ Hereinafter "IPC"

⁴ Hereinafter "POCSO Act"

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2. The prosecution's case, as emerging from the FIR, may pithily be put thus: the victim/complainant, a first-year student at a college in Delhi, was *en route* to her college on 15.09.2023. Having travelled by bus from GTB Nagar to ISBT, she proceeded towards Gate No. 6 of the Kashmere Gate Metro Station when a man allegedly approached her, pulled her aside from the road, and offered to drop her to the college in his auto without charge. It is alleged that, during the journey, on a secluded stretch, the auto driver slowed down the vehicle and, while turning towards her, touched her inappropriately on her left thigh, chest, and abdomen. The victim, frightened by the incident, managed to get down from the auto near the college. She thereafter reported the matter to the college authorities, consequent to which her medical examination was concluded.

3. During the investigation, the CCTV camera installed at the incident site were checked, however, no clue could be ascertained from the footage.

4. Subsequently, on 07.12.2023, acting upon secret information that the auto driver involved in the incident would be present at Kashmere Gate, the Investigating Officer, accompanied by police staff and the victim, reached the said location. From a distance, the victim identified the petitioner through a hand gesture as the person who had molested her on 15.09.2023. The petitioner was apprehended, brought to P.S. Civil Lines, and arrested at the instance of the victim.

5. Further, notice under Section 133 of the Motor Vehicles Act was served upon the registered owner of auto rickshaw No. DL1RZ2908, who disclosed that the said vehicle had been driven by the petitioner from 20.07.2023 to 20.09.2023. The vehicle was seized



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and deposited in the malkhana. Upon completion of investigation, a chargesheet was filed against the petitioner.

6. Thereafter, on 27.02.2024, charges were duly framed against the petitioner under Section 354A IPC and Section 8 of the POCSO Act by the Court of the learned Trial Court.

7. The petitioner's petition seeking regular bail was subsequently dismissed by the learned ASJ, FTSC (POCSO)-02, Central, THC, Delhi *vide* order dated 03.12.2024. The learned Court observed that although the site plan had not been proved, no CCTV footage or public statements had been collected and certain discrepancies had appeared in the victim's testimony, a detailed evaluation of evidence is impermissible at the bail stage. Taking note of the heightened threshold under Section 29 of the POCSO Act, the petitioner's multiple criminal antecedents, and the likelihood of tampering with the victim who is a young student residing alone in Delhi, the petitioner did not deserve the concession of bail.

Submissions on behalf of the petitioner:

8. Mr. Bharat Bagga, appearing on behalf of the petitioner, submits that the learned Trial Court, while rejecting the bail application *vide* order dated 03.12.2024, had itself noted that the site plan had not been proved, no CCTV footage or public witness statements had been collected, and certain discrepancies had emerged in the testimony of the victim. It is urged that, in view of these observations, bail ought to have been granted.

9. It is further contended that the victim has since been examined before the Trial Court and had not supported the prosecution case.

Attention has been drawn to specific portions of her testimony dated

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13.09.2024, wherein material questions put by the prosecution elicited responses inconsistent with the allegations.

10. He submits that the alleged incident occurred on 15.09.2023, whereas he was arrested only on 07.12.2023 after a delay of nearly 83 days. He has remained in custody for over one year, the investigation stands concluded, charges have been framed, and the victim has now been examined.

11. The petitioner claims to be the sole breadwinner of his family, comprising his wife and son, and asserts that prolonged incarceration has severely impacted the family's financial condition, particularly the education of his son.

12. Reliance has been placed on the decision of the Hon'ble Supreme Court in *Manish Sisodia v. CBI*⁵, to contend that pre-trial detention should not become punitive, and where trial is unlikely to conclude in the near future, continued incarceration offends Article 21 of the Constitution.

13. Mr. Bharat Bagga further submits that the earlier bail dismissal order of the Trial Court dated 07.08.2024 contains factual errors regarding his alleged previous convictions and pendency of other cases. It is asserted that, contrary to the observations of the Trial Court, he was not convicted under Section 376 IPC, and the other referred cases have already been disposed of.

14. The petitioner undertakes to comply with any conditions that may be imposed, submit himself to the process of law, and not attempt to influence any witness or tamper with evidence.



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Submissions on behalf of the State:

15. *Per contra*, Mr. Satish Kumar, learned APP for the State, opposes the bail application, submitting that the allegations against the petitioner are grave in nature, involving sexual assault upon a young college student. It is further contended that the petitioner is a habitual offender, having previously been involved in multiple criminal cases, and that his conviction in an earlier matter reflects a pattern of conduct rather than an isolated lapse. Attention of this Court is invited to the antecedent report placed on record to contend that the petitioner's release on bail would pose a real and imminent threat of influencing the victim and undermining the course of justice. Hence, no case for grant of bail is made out.

Analysis and Conclusion

16. Heard the learned Counsels and perused the material on record.

17. The parameters for grant of bail have been laid down by the Hon'ble Supreme Court in several Judgments. In ***Prasanta Kumar Sarkar v. Ashis Chatterjee***⁶, the Hon'ble Supreme Court has held as under:

"9. We are of the opinion that the impugned order is clearly unsustainable. It is trite that this Court does not, normally, interfere with an order passed by the High Court granting or rejecting bail to the accused. However, it is equally incumbent upon the High Court to exercise its discretion judiciously, cautiously and strictly in compliance with the basic principles laid down in a plethora of decisions of this Court on the point. It is well settled that, among other circumstances, the factors to be borne in mind while considering an application for bail are:

(i) whether there is any prima facie or reasonable ground to believe that the accused had committed the offence;



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- (ii) nature and gravity of the accusation;
- (iii) severity of the punishment in the event of conviction;
- (iv) danger of the accused absconding or fleeing, if released on bail;
- (v) character, behaviour, means, position and standing of the accused;
- (vi) likelihood of the offence being repeated;
- (vii) reasonable apprehension of the witnesses being influenced; and
- (viii) danger, of course, of justice being thwarted by grant of bail”

18. Applying the above parameters to the present matter, it emerged from the material on record that the victim, a young college student residing in a paying guest accommodation in Delhi, has alleged sexual assault by the petitioner.

19. The petitioner has emphasized certain perceived discrepancies in the testimony of the victim and the absence of CCTV footage or a conclusive site plan. However, the law on this aspect is well settled. At the stage of consideration of bail, the Court is not expected to conduct a meticulous analysis of evidence or weigh the credibility of witnesses. This proposition stands fortified by the dictum of the Hon’ble Supreme Court in *Satish Jaggi v. State of Chhattisgarh & Ors.*⁷, wherein it has been held:

“At the stage of granting of bail, the Court can only go into the question of prima facie case established for granting bail. It cannot go into the question of credibility and reliability of the witnesses put up by the prosecution. The question of credibility and reliability of prosecution witnesses can only be tested during the trial.”

20. The victim’s statement recorded under Section 164 CrPC, which carries considerable evidentiary sanctity, reflects consistency



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with the averments in the FIR. The identification of the petitioner by the victim, *prima facie* connects the accused to the commission of the alleged offence. The weight of the statutory protection afforded to such victims cannot be diluted at this stage.

21. At this juncture, it is of significance that the victim is a young college student, recently residing in the city without familial protection. The alleged act was committed upon a girl who was unfamiliar with her surroundings and dependent on public transport, thereby heightening her vulnerability. In such circumstances, it is difficult to assume that a girl of this age and background would, without compelling reason, subject herself to the social, emotional and procedural trauma of a sexual assault complaint by falsely implicating an unknown auto driver. This aspect, at the present stage, reinforces the *prima facie* credibility of the accusation.

22. As regards the contention of delay in arrest, the record reveals that the investigating agency faced constraints due to lack of identifiable information at the incipient stage. The arrest eventually materialized only after a tip-off from a secret informer. The nature of the allegations, coupled with the explanation offered by the prosecution, sufficiently addresses the issue. Mere delay in arrest cannot be a ground, in isolation, to enlarge an accused on bail, particularly when the allegation is grave in nature.

23. The reliance placed by the petitioner on *Manish Sisodia* (*supra*) is misconceived in the factual matrix. The observations therein, cautioning against punitive pre-trial detention, were made in the context of economic offences and cannot be mechanically imported into cases involving sexual assault on a minor. Article 21 safeguard liberty, but it must operate in harmony with the legislative



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mandate under POCSO Act, which priorities protection of vulnerable victims. To invoke broad constitutional principles divorced from this special statutory framework would dilute the object of the Act and defeats its protective purpose.

24. At this juncture, it is apposite to quote the main objective of the POCSO Act and the reason for the enactment of this special legislation:

“An Act to protect children from offences of sexual assault, sexual harassment and pornography and provide for establishment for Courts for trial of such offences and for matters connected or incidental thereto”.

25. A perusal of the antecedent report reflects that the petitioner has previously been involved in multiple criminal cases, and his conviction in an earlier case cannot be brushed aside merely on his assertion of factual inaccuracy. The apprehension expressed by the State that release of the petitioner at this stage may expose the victim to pressures or threats appears neither speculative nor unfounded.

26. In view of the foregoing discussion, this Court finds that there exists *prima facie* grounds to believe that the petitioner is involved in the offence alleged; the accusations are grave; the victim at the time of the incidence was a minor; there is a reasonable apprehension of influence over witnesses; and the legislative object underlying POCSO Act, coupled with the petitioner's antecedents, militates against the grant of bail. The considerations of personal hardship or delay in trial, though relevant, cannot outweigh these compelling factors at this juncture.

27. Consequently, this Court is of the view that no case for grant of bail is made out. The present petition is accordingly dismissed, along with pending application(s), if any.

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28. It is clarified that the observations contained herein are only for the purpose of deciding the present bail application and shall not influence the trial in any manner.

29. The judgment be uploaded on the website forthwith.

AJAY DIGPAUL, J.

NOVEMBER 22, 2025/ar/dd