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

+ **BAIL APPLN. 669/2025**

MOHAN MEHTO

.....Petitioner

Through: Mr. Lokesh Kumar Mishra, Advocate

versus

STATE (GNCT OF DELHI) AND ANR.

.....Respondents

Through: Mr. Rajkumar, APP for the State with
SI K.P. Singh, P.S. New Ashok Nagar

CORAM:

HON'BLE DR. JUSTICE SWARANA KANTA SHARMA

ORDER

21.04.2025

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1. By way of the instant application, the applicant herein seeks grant of regular bail in case arising out of FIR bearing no. 78/2023, registered at Police Station New Ashok Nagar, Delhi for the offences punishable under Sections 376/506 of the Indian Penal Code, 1860 (hereafter 'IPC').
2. As per office note, respondent no. 2 has been served, however, she is not present.
3. The concerned Investigating officer (IO) states that the victim had informed him that she will appear before the Court and that she has adequate notice of hearing of this case, however, she has chosen not to appear. Therefore, this Court proceeds to hear the arguments addressed on behalf of the learned counsel for the applicant and learned APP for the State.
4. Briefly stated, the facts of the present case are that the present FIR was registered on the basis of a complaint lodged by the victim who had



stated that her brother had been suffering from a spinal problem, and since the prescribed medications had failed to provide a cure, they had approached the accused in the year 2022, who was a tantrik. The victim stated that her brother had made donation to the accused, who had invited both of them to his residence. It is alleged that the accused had informed the victims that their hair would soon start falling out, their appearance would deteriorate, and they would be unable to find suitable marriage partners, but accused had solution to these problem. Following this, victims and their brother had visited the accused on consecutive days, during which the accused had provided instructions regarding the ceremonies he had intended to perform. It is alleged that on 20.10.2022, the victims and their brothers had arrived at the accused person's house, where he had performed certain rituals and the accused had also offered wine in two glasses to the victims. It is alleged that the accused had then called the victims inside the temple which was situated in his house and had locked the door and had touched the victims inappropriately, despite their objections. As alleged, when the victims had resisted, the accused had threatened them with dire consequences. It is stated that the accused had placed a knife against the victim's neck, and using such pressure, had forcibly kissed and brutally raped the victims for several hours. After committing these acts, the accused had allegedly instructed the victims to leave his house and had warned them against disclosing the incident to anyone by threatening them with dire consequences.

5. The learned counsel appearing on behalf of the accused/applicant argues that the applicant herein has been falsely implicated in the present case and that there is an unexplained delay of about 120 days in registration of the present FIR and there are no medical or scientific evidence to support



the case of the prosecution. It is argued that on the next day of the incident, the complainant had approached the police station and had blackmailed the applicant on the pretext of lodging a false case under Section 376 of IPC and had demanded Rs.5,00,000/- and out of which, Rs.2,00,000/- had been given by the applicant herein to the complainant and after such extortion she did not file any complaint against the petitioner and it had been agreed that Rs.3,00,000/- will be paid after one month, but his failure to pay the said amount has resulted in this FIR. It is argued that the victim had never visited the alleged place of incident and in this regard, the call and location details of the mobile phones of both the victims can be obtained and analysed. It is also argued that there are several contradictions in the case of prosecution. It is therefore, prayed that the applicant herein, be granted regular bail.

6. The learned APP for the State, on the other hand, opposes the present bail application and argues that the allegations against the present applicant/accused are serious in nature. It is argued the victims have supported their case in their statements recorded under Section 164 of the Code of Criminal Procedure, 1973 (hereafter '*Cr.P.C*'). It is also submitted that the victims have clearly stated in their statement that they were not carrying mobile phones with them on the day of incident. It is also stated that the location of the brother of victim at the spot of incident, as per the Call Detail Record (CDR), remains undisputed. It is also pointed out that last bail application was rejected by this Court vide order dated 06.07.2023. Therefore, it is prayed that the application for grant of regular bail be rejected.

7. This Court has heard arguments addressed on behalf of the applicant/accused as well as on behalf of the learned APP for the State and



has perused the material available on record.

8. It is the case of the prosecution that the accused herein had manipulated the victims by predicting negative events in their life. During the visits of the victims to the applicant's house, the applicant had allegedly performed some rituals and had then taken the victims to a different room, where he had allegedly raped them. The applicant is also alleged to have threatened the victims to not disclose the incident to anybody or otherwise they will have to face dire consequences.

9. As per the Status Report, during the course of investigation, medical examination of the victims had been conducted and statements before learned Magistrate of the victims had been recorded wherein both the victims/complainants had supported the prosecution's case. Further, the present case is at the stage of prosecution evidence and both the victims have been examined and cross-examined. However, other material witnesses are yet to be examined.

10. As far as the arguments of learned counsel for the accused that the victims had refused to go through the internal examination is concerned, the incident had taken place on 20.10.2022 and the medical examination of the victims was conducted in March, 2023. Therefore, even if the same would have been conducted, it may not have been of much consequence. Further, the repercussion of delay in lodging the FIR as well as non-medical examination of the victims can be gone through only at the stage of trial or charge, and cannot be minutely considered at this stage.

11. As far as the arguments of learned counsel for the accused that the trial will take long period of time to conclude, this Court notes that, as per the Status Report, the present case is at the stage of prosecution evidence



and the witnesses are being examined by the learned Trial Court, and there is no undue delay in the trial.

12. It is apposite to mention here that the Hon'ble Supreme Court in its judgment *X v. State of Rajasthan & Anr.: 2024 INSC 909* has emphasized that in serious offences like rape, murder, dacoity, etc., bail should generally not be granted once the trial has started, especially based on the victim's testimony, as granting bail at that stage can affect the fairness of the ongoing trial. The relevant portion of the aforesaid judgment is set out below:

14. Ordinarily in serious offences like rape, murder, dacoity, etc., **once the trial commences and the prosecution starts examining its witnesses, the Court be it the Trial Court or the High Court should be loath in entertaining the bail application of the accused.**

15. Over a period of time, we have noticed two things, i.e., (i) either bail is granted after the charge is framed and just before the victim is to be examined by the prosecution before the trial court, or (ii) bail is granted once the recording of the oral evidence of the victim is complete by looking into some discrepancies here or there in the deposition and thereby testing the credibility of the victim.

16. We are of the view that the aforesaid is not a correct practice that the Courts below should adopt. **Once the trial commences, it should be allowed to reach to its final conclusion which may either result in the conviction of the accused or acquittal of the accused. The moment the High Court exercises its discretion in favour of the accused and orders release of the accused on bail by looking into the deposition of the victim, it will have its own impact on the pending trial when it comes to appreciating the oral evidence of the victim. It is only in the event if the trial gets unduly delayed and that too for no fault on the part of the accused, the Court may be justified in ordering his release on bail on the ground that right of the accused to have a speedy trial has been infringed.**

13. As far as the arguments of learned counsel for the accused regarding



the analysis of victims' CDR and their location at the time of incident is concerned, this Court *vide* order dated 06.07.2023 has already observed as under:-

...8. At this stage, the specific allegations leveled in the FIR as well as in the statement recorded under Section 164 Cr.P.C. of the victims reveal that they have specifically, elaborately and explicitly explained the manner in which sexual assault was committed upon them. They have also explained as to why they had not carried their mobile phones to the place of incident. Even otherwise, merely because the CDR does not show their location at the place of crime, it cannot be held against them as a person may not carry his/her mobile phone everywhere and it cannot be an indication of a person being present or being absent at the spot. The Court, at the same time, also takes note of the fact that brother of the victims and the accused had been found to be present at the spot as per CDRs. and as per the statements on record, both the victims had stated that their brother was present at the spot and he was not asked to not bring his mobile phone at the spot.

14. Considering the fact that trial has commenced, and is at the stage of prosecution evidence, and taking into account the gravity of the alleged offence, this Court is not inclined to release the applicant herein on regular bail at this stage.

15. Accordingly, the present application stands dismissed.

16. It is however clarified that nothing expressed herein-above shall tantamount to an expression of opinion on the merits of the case.

17. The order be uploaded on the website forthwith.

DR. SWARANA KANTA SHARMA, J

APRIL 21, 2025/ns

[Click here to check corrigendum, if any](#)