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

+ **BAIL APPLN. 755/2025**

JITENDER SWAMI @JITU

.....Petitioner

Through: Mr. Suraj Prakash Sharma & Mr.
Mayank Chauhan, Advs.

versus

STATE (NCT OF DELHI)

.....Respondent

Through: Mr. Sanjeev Sabharwal, APP for the
State.
SI Bharti Singh, P.S. Aman Vihar.
Ms. Naiem J. Heena, Advocate for the
survivor (through Vc).

CORAM:

HON'BLE MR. JUSTICE AMIT SHARMA

ORDER

23.05.2025

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1. This hearing has been done through hybrid mode.
2. The present application under Section 483 read with Section 439 of the Cr.P.C. seeks regular bail in case FIR No. 868/2024 under Sections 74/75 (2) of the BNS and Sections 8/12 of the POCSO Act at PS Aman Vihar.
3. The case of the prosecution as per the status report dated 10.03.2025 authored by SHO/ Aman Vihar is as under:-

“Brief facts of case are that the case was registered on the complaint of prosecutrix "R" when a PCR call vide no-116A dt:08/ 12/24 was received in PS Aman Vihar which is as "12 VERS KI LADKI K SAT RAPE KAR DIYA HAI JO PADOSE LADKA THA JO MAKAN MALIK KA BHANJA LAGTA HAI JO LADKA 20/22 YERS KA HAI CATS KO 301010 PAR BATLAY HAI." Statement of victim "R" was recorded by ASI Suman in which she stated that around 10 days prior to the registration of FIR, she went at a shop nearby her house, accused



Jitender Swami held her hand there and started following her. Accused Jitender took "R" at the terrace and kissed her forcefully. "R" was being followed by accused Jitender at her tuition and school. Counseling of victim "R" was got conducted by Dew counselor and on the basis of her statement, present case got registered by ASI Suman and the further investigation was entrusted to SI Bharti Singh.

During the course of investigation~ medical examination of "R" was got conducted 10 Sanjay Gandhi Memorial Hospital, Mangolpuri, Delhi vide MLC no-281/24 in which victim UR" corroborated the facts mentioned in her earlier statement. Her statement u/ s · 183 BNSS got recorded in the Hon'ble Court of Lei. Reliever JMFC, Rohini Courts, Delhi in which she completely supported her earlier statements.

During the course of investigation, accused Jitender Swami surrendered himself in PS .Aman Vihar, he was interrogated and arrested on 08/12/24 and sent to JC.

4. Learned counsel appearing on behalf of the applicant submits that the PW-1 in her testimony recorded before the learned Trial Court has made certain improvements with regard to dates of the incident and a second incident has also been introduced which was not mentioned in the FIR. Copy of the statement has been handed up in Court and the same is taken on record.
5. Learned counsel appearing on behalf of the applicant submits that the FIR in the present case has been registered after a delay of 13 days. It is submitted that the survivor in the present case has been examined as PW-1. It is further submitted that the applicant has been falsely implicated on account of pressure at the behest of the survivor's family. It is submitted that the applicant has been in custody since 08.12.2024 and prosecution has cited 15 witnesses, only 1 has been examined so far i.e. survivor.
6. Learned APP for the State assisted by learned counsel appearing on



behalf of the survivor submits that the survivor, who has been examined as PW-1 before the learned Trial Court has supported the case of the prosecution. It is submitted that the delay, if any, in registration of FIR, has to be explained during the course of trial.

7. Heard the learned counsel for the parties and perused the record.

8. A perusal of the FIR shows that the same was registered on 08.12.2024 with regard to an incident that happened 10 days prior to the registration of FIR. One more incident of 06.12.2024 has been stated by her in her testimony which was not mentioned in the FIR. The allegation by the survivor as well as delay in lodging the FIR is a matter of trial to be determined by the learned Trial Court in accordance with law.

9. The applicant is stated to be in custody since 08.12.2024. Prosecution has cited 15 witnesses, only 1 has been examined so far.

10. In totality of the facts and circumstances, the present application is allowed. The applicant is directed to be released on bail, on his furnishing a personal bond of Rs. 15,000/- 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, nothing mentioned hereinabove is an opinion on the merits of the case and any observations made 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 23, 2025/nk/pr

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