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

+ **BAIL APPLN. 766/2025**

SULEMAN SAMAD

.....Petitioner

Through: Mr. Shahzeb Ahmed, Mr. Shikhar Khare, Mr. Adeel Ahmad Khan, Mr. Utkarsh & Mr. Shashi Kumar, Advocates.

versus

STATE OF NCT OF DELHI & ANR.

.....Respondents

Through: Mr. Rajkumar, APP for State.

CORAM:

HON'BLE DR. JUSTICE SWARANA KANTA SHARMA

ORDER

04.08.2025

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1. By way of the present application, the applicant is seeking grant of regular bail in case arising out of FIR bearing no. 0103/2023, registered at Police Station Vasant Vihar, Delhi for the commission of offences punishable under Section 354/354(A) of the Indian Penal Code, 1860 (hereafter 'IPC') and Section 8/10 of the Prevention of Children from Sexual Offences Act, (hereafter 'POCSO Act').
2. Issue notice. Mr. Rajkumar, APP for State accepts notice on behalf of the State.
3. Briefly stated, the facts of the case as per prosecution are that on 26.03.2023, the accused/applicant herein had visited the house of the victim when her parents were away for work, at 06:00 pm, and on finding the victim alone in the house, he had put his hand inside her T-shirt and had



inappropriately pressed her chest. It is also alleged that thereafter, the accused had inserted his hand inside the pants of the victim, touched her genitals and made certain inappropriate comments. The victim had revealed the incident to her neighbour, who had made a call to the mother of the victim and asked her to rush back home. On the basis of a complaint lodged by the mother of the victim, the present FIR was registered.

4. The present accused/applicant was arrested on 27.03.2023 and since then, he has been in judicial custody. After the conclusion of investigation, chargesheet and supplementary chargesheet were filed on 24.05.2023 and 21.09.2023 respectively, and charges were framed against the present applicant. The first and second bail applications filed by the applicant before the learned Trial Court were dismissed *vide* orders dated 09.05.2024 and 20.10.2024 respectively.

5. Thereafter, the applicant had filed *Bail Application No. 4266/2024* before this Court, praying for grant of regular bail. However, during the course of arguments at that point in time, the learned counsel for the accused had submitted that though this bail application was filed in November, 2024, in the month of December, the jail authorities themselves had forwarded a letter to the learned Trial Court regarding completion of one-third of the maximum sentence which may be awarded to the applicant if he is convicted in the present case. Alongwith the said letter, an application for grant of bail was also sent by the Jail authorities to the learned Trial Court. However, the said application was not being heard and decided by the learned Trial Court.

6. In the aforesaid background, this Court had disposed of *Bail Application No. 4266/2024* with the direction to the learned Trial Court to decide the bail application of the applicant (in terms of Section 479 of



BNSS), pending before it, within seven days from the receipt of this order.

7. It is now submitted that the said application came to be dismissed by the learned Trial Court *vide* order dated 31.01.2025, on the ground that the maximum punishment which may be awarded for offence under Section 10 of POCSO Act, 2012 is 07 years, and the period of 01 year and 10 months undergone by the applicant in judicial custody was nowhere near to 2 years and 03 months – which would be the 1/3rd of maximum punishment which may be awarded to the applicant in this case, if convicted.

8. In this background, the learned counsel appearing for the applicant argues that the applicant has now remained in judicial custody for more than 2 years and 04 months and he is now entitled to grant of bail in view of Section 479 of BNSS, 2023. It is also contended that the applicant is 60 years old and suffering from certain medical ailments and the trial is proceeding at a slow place.

9. The learned APP for the State, on the other hand, argues that the allegations against the applicant are serious in nature. However, he fairly submits that the applicant has undergone more than 1/3rd of the maximum punishment which he may be awarded upon conviction.

10. This Court has heard arguments addressed by the learned counsel for both the parties and has perused the material on record.

11. The applicant has sought bail, primarily relying on Section 479 of BNSS, 2023, the relevant portion of which reads as under:

“479. Maximum period for which undertrial prisoner can be detained. —

(1) Where a person has, during the period of investigation, inquiry or trial under this Sanhita of an offence under any law (not being an offence for which the punishment of death or life imprisonment has been specified as one of the punishments under that law)



undergone detention for a period extending up to one-half of the maximum period of imprisonment specified for that offence under that law, he shall be released by the Court on bail:

Provided that where such person is a first-time offender (who has never been convicted of any offence in the past) he shall be released on bond by the Court, if he has undergone detention for the period extending up to one- third of the maximum period of imprisonment specified for such offence under that law:

Provided further that the Court may, after hearing the Public Prosecutor and for reasons to be recorded by it in writing, order the continued detention of such person for a period longer than one-half of the said period or release him on bail bond instead of his bond:

Provided also that no such person shall in any case be detained during the period of investigation, inquiry or trial for more than the maximum period of imprisonment provided for the said offence under that law.

Explanation.—In computing the period of detention under this section for granting bail, the period of detention passed due to delay in proceeding caused by the accused shall be excluded.”

12. Concededly, the applicant herein has undergone more than 1/3rd of the maximum imprisonment that he may be awarded for the alleged offences, i.e. more than 02 years and 04 months, as against maximum permissible sentence of 07 years for offence under Section 10 of the POCSO Act, 2012. The learned APP for the State has also fairly conceded that the applicant is entitled to grant of bail in view of Section 479 of BNSS.

13. Accordingly, this Court is inclined to grant regular bail to the applicant on his furnishing personal bond in the sum of Rs.10,000/- with one surety of the like amount, to the satisfaction of the Trial Court/Successor Court/Link Court/Duty Judge concerned on the following terms and conditions:

- i) The applicant shall surrender his passport and not leave the country without prior permission of the concerned Court.



- ii) The applicant shall not directly or indirectly make an attempt to influence the witnesses, or tamper with the evidence in any manner.
 - iii) The applicant shall share his mobile number with the concerned IO/SHO, and shall keep the same switch on/active at all times.
 - iv) In case of change of residential address/contact details, the applicant shall promptly inform the same to the concerned Court.
 - v) The applicant shall appear regularly before the learned Trial Court.
14. Accordingly, the present application stands disposed of.
15. Nothing expressed hereinabove shall tantamount to an expression of opinion on the merits of the case.
16. The order be uploaded on the website forthwith.

DR. SWARANA KANTA SHARMA, J

AUGUST 04, 2025/vc