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IN THE HIGH COURT OF DELHI AT NEW DELHI

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BAIL APPLN. 803/2025

MANWAR @MUNAWAR @MANNU

.....Applicant

Through: Mohammad Ali &
Nadeem Khan, Advts.

versus

STATE NCT OF DELHI & ANR.Respondents

Through: Mr. Sunil Kumar Gautam,
APP for the State.
SI Nikita, PS Bhajanpura

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

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27.05.2025

1. The present application is filed seeking bail in FIR No. 674/2022 dated 07.12.2022, registered at Police Station Bhajan Pura, for offences under Sections 323/506/377 of the Indian Penal Code, 1860 and Section 6 of the Protection of Children from Sexual Offences Act, 2012 ('**POCSO Act**').
2. It is the case of the prosecution that the applicant caught hold of the victim (who was eleven years old at that time) and took the victim to his house by threatening him with a knife. It is alleged that the applicant committed aggravative penetrative sexual assault on the victim by penetrating his anus.
3. The bail application, being, BAIL APPLN. 1777/2023, filed by the applicant on an earlier occasion was dismissed as withdrawn by order dated 04.07.2024, passed by this Court. The order mentions that after some arguments, the petitioner seeks liberty to withdraw the application. Liberty was granted to the



applicant to approach the learned Trial Court at an appropriate stage.

4. Subsequently, the bail application of the applicant was dismissed by the learned Trial Court by order dated 06.12.2024 by taking note of the gravity of the offence. It was observed that the victim and his parents have supported the case of the prosecution and the surgeon had also opined that the victim showed likely signs of anal discourse.

5. Barring that the applicant has spent more time in custody and a couple of more witnesses have been examined after passing of the order dated 04.07.2024, there does not appear to be any change in circumstances.

6. It is also pointed out by the learned Additional Public Prosecutor for the State that the trial has been proceeding expeditiously and eight out of fifteen prosecution witnesses have already been examined. It is stated that examination of only official witnesses is remaining.

7. The present case relates to allegations of aggravated sexual assault on a minor victim. Recently, the Hon'ble Apex Court in the case of ***X v. State of Rajasthan & Anr. : 2024 INSC 909***, in a challenge to the order passed by the High Court of Judicature for Rajasthan whereby the bail application filed by the accused was allowed, observed as under:

“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.***

(emphasis supplied)

8. It is also important to note that the matter relates to the offences under the POCSO Act. Section 35(2) of the POCSO Act provides that as far as possible, the trial for offence under POCSO Act shall be completed in a time bound manner.

9. In view of the above, considering that only seven official witnesses remain to be examined and the trial is likely to conclude in the near future, this Court does not deem it appropriate to consider the present application at this stage.

10. The learned Trial Court is requested to conclude the recording of the evidence expeditiously, preferably within a period of six months.

11. The applicant is at liberty to file an application afresh if the trial does not conclude within a period of six months.

12. The present application is dismissed in the aforesaid terms.

AMIT MAHAJAN, J

MAY 27, 2025

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