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

+ **BAIL APPLN. 851/2025**

GOPAL

.....Applicant

Through: Ms. Sushma Sharma,
Advocate.

versus

THE STATE NCT OF DELHI

.....Respondent

Through: Mr. Sunil Kumar Gautam,
APP for the State with SI
Dipika, PS Adarsh Nagar.
Ms. Anu Narula, Advocate
(*Amicus Curiae*).

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

01.07.2025

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1. The present application is filed seeking regular bail in FIR No. 90/2021 dated 15.02.2021, registered at Police Station Adarsh Nagar for offences under Sections 376/506 of the Indian Penal Code, 1860 (**'IPC'**) and Section 6 of the Protection of Children from Sexual Offences Act, 2012 (**'POCSO'**).

2. The FIR was registered on 15.02.2021 pursuant to a complaint alleging that the applicant established forceful physical relations with the prosecutrix whereafter she also got pregnant. It is alleged that the physical relations were established in the month of September and October, 2020. It is alleged that at the time of the incident the prosecutrix was below 16 years. The FIR was therefore registered under Sections 376/328 of the IPC and Section 6 of the POCSO.

3. The learned counsel for the applicant submits that the prosecutrix at the time of the incident had already attained the age



of majority. She submits that the sole document which was considered for the purpose of ascertaining the age of the prosecutrix was the affidavit of her father which was given at the time of her admission in the school. She submits that the same is not sufficient as prescribed under Section 94 of the Juvenile Justice (Care and Protection of Children) Act, 2015. She submits that the age of the prosecutrix has been doubted and the benefit of the same ought to be given to the applicant.

4. Ms. Anu Narula, learned *Amicus Curiae* states that even if the case of the applicant is taken at the highest, the fact that the applicant forcefully established physical relations with the prosecutrix would still make him liable under Section 376 of the IPC. She submits that the aspect whether the prosecutrix was minor at the time of incident is a subject matter of trial and ought not to be commented upon at this stage. She further submits that at this stage the affidavit of the father which was given way back in the year 2010 is sufficient and clearly shows that the same was not used for the purpose of falsely implicating the applicant.

5. The learned Additional Public Prosecutor for the State submits that the trial is almost at the fag end and all the material witnesses have already been examined. He submits that the matter is now listed for recording the statement of the applicant.

6. It is settled law that the Court, while considering the application for grant of bail, has to keep certain factors in mind, such as, whether there is a prima facie case or reasonable ground to believe that the accused has committed the offence; the nature and gravity of the accusation; severity of the punishment in the event of conviction; the danger of the accused absconding or fleeing if released on bail; reasonable apprehension of the witnesses being threatened *etcetera*.



7. In the present case, serious allegations have been levelled against the applicant. It is alleged that the applicant subjected the prosecutrix to forceful sexual intercourse pursuant to which she also got pregnant. The prosecutrix is further stated to be only 16 years of age at the time of incident. Any defence in regard to the age of the victim would be seen by the learned Trial Court as and when the issue is raised before the Court and the same cannot be commented upon at this stage.

8. However, as noted above, the trial is at its fag end. Considering the nature and gravity of the allegations and the stage of the trial, this Court does not consider it apposite to entertain the present bail application.

9. It is however made clear that the observations made in the present order are only for the purpose of adjudicating the present bail application and should not influence the outcome of the trial and also not be taken as an expression of opinion on the merits of the case.

10. In view of the above, the present bail application is dismissed.

11. This Court appreciate the efforts put in by the Ms. Anu Narula, learned *Amicus Curiae* who agreed to represent the victim in the present matter.

AMIT MAHAJAN, J

JULY 1, 2025

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