



2025:DHC:8905



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

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*Reserved on: 19th September, 2025
Pronounced on: 08th October, 2025*

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BAIL APPLN. 888/2025, CRL.M.A. 6624/2025

ASIF ALIAS LULU

S/o Sh. Feruddin

R/o H.No. 4371, Gali No. 21, Shanti Mohalla, Delhi.

(Presently confined at Central Jail No. 11,

Mandoli, Delhi.

...Petitioner

Through: Mr. Aman Panwar, Advocate.

versus

THE STATE OF THE NCT OF DELHI

Through SHO, PS Krishna Nagar

...Respondent

Through: Mr. Utkarsh, APP for the State. Mr.
Ravi Ranjan, Advocate for
Complainant (through VC).

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T

NEENA BANSAL KRISHNA, J.

1. Regular Bail Application under Section 483 (*Section 439 of the Code of Criminal Procedure, 1973*) of the Bharatiya Nagarik Suraksha Sanhita, 2023 (*hereinafter referred to as 'B.N.S.S.'*) has been filed on behalf of the Petitioner, Asif alias Lulu, in Case FIR No. 591/2022 under Section 342/363/323/377/506 of the Indian Penal Code, 1860 (*hereinafter referred to as 'IPC'*) and Section 4 of POCSO Act, registered at Police Station Krishna Nagar.



2. It is submitted that the case is pending at the stage of Prosecution evidence. The Applicant is in judicial custody since 19.08.2022 i.e. for more than three years. The Applicant had filed a Bail Application before the learned Trial Court, which was dismissed on 30.04.2024.

3. It is submitted that the present case got initiated from a PCR call recorded *vide* DD No. 21A made by the brother of the Accused, Iqbal. ASI Rajbir Singh, HC Sachin reached the spot at Gali No. 21, Shanti Mohalla and surprisingly, the victim made a Complaint stating that while he was taking a stroll after dinner, the Applicant threatened him by showing a blade to kill him. He thereafter, threatened him not to tell anyone about what happened, else he would kill him. On his Complaint, the present FIR was registered. On completion of investigations, Charge-Sheet got filed in the Court and the matter is at the stage of Prosecution evidence.

4. The Applicant submits that there are glaring contradictions in the Complaint given by the victim and his Statement recorded under Section 164 Cr.PC. In his initial Complaint, the victim had alleged that a boy around 22 years of age, had asked him to come along with him and when he denied, that person threatened him with a blade. However, in his Statement under Section 164 Cr.P.C., he gave the description of the Accused as a tall, well built man. Moreover, he stated that he saw another man and called for help but that other man silently walked away. The Police has failed to identify that man and he has not been cited as a witness or recorded his Statement, which dents the case of the Prosecution on the ground of verification of the identity of the Accused.

5. The case of the Prosecution further falls on its face as DNA analysis carried out by the FSL, suggests that the DNA found on the exhibits



collected from the victim, did not match with that of the Accused. The FSL Report has been submitted along with the Supplementary Charge-Sheet.

6. The Applicant states that he was granted Interim Bail on the ground of health of his father, which was extended on demise of his father on 18.03.2024. He surrendered on time and did not violate any of the conditions imposed while granting Bail.

7. The Applicant further submits that the statement of the victim has already been recorded by the Police. There was no tampering of evidence by the Applicant at any stage nor did he try to win over the witness. Furthermore, the victim, as per the Applicant, has gone back to his native village in Bihar.

8. The Applicant is a resident of Delhi and has deep roots in the society. He is in judicial custody for more than two years. He undertakes to abide by any terms that may be imposed by the Court and has sought Bail.

9. The ***State in its Status Report*** has explained that the victim in his Statement had made specific allegations of criminal intimidation by the Applicant by showing a blade. He had taken the victim to his room in his house on the second floor, bolted his room from inside and forcibly removed the clothes of the victim. He thereafter, sexually assaulted him for about half an hour. The victim shouted, but Accused closed his mouth and also gave him beatings. The marks of beating were also present on the body of the victim. After sexual assault, Accused himself took a bath and forced the victim to do so. On reaching his house, the victim did not disclose about the incident to anyone out of fear. In the morning, brother of victim, Faizan saw the condition of his brother and made an enquiry, on which the victim disclosed the entire incident. Faizan took his brother to the house of the



Accused where he was found present. The victim identified the Accused as the person who had assaulted him. PCR was informed and on the Statement of the victim, the said FIR was registered.

10. The Crime Team inspected the scene of crime and photographs were taken. The exhibits i.e. the Control Sample and blood sample were lifted from the scene of crime. The victim 'S' was medically examined at SDM Hospital and the doctor handed over three sealed exhibits, namely, the clothes, anal swab stick and blood sample. The Accused, Asif during the investigations, was arrested from his house on 19.08.2022.

11. On completion of the investigations, a Charge Sheet was filed in the Court. In the facts and circumstances and the gravity of the offence, the Bail Application is strongly opposed.

12. ***Learned counsel for the Applicant has argued*** that there was no relationship between the victim and the Accused. According to him, he was taking a stroll outside his house after the dinner when the Accused had accosted him and criminally intimidated him by showing a blade. However, there was a distance of about 50 meters from the place where the victim was accosted and the house of the Accused. Pertinently, no alarm was raised by the victim, who allegedly accompanied the Accused.

13. In fact, there was a previous enmity between the elder brother of the victim and the Accused. A scuffle had taken place between the Accused and his brother on 19.08.2022 after which the FIR has been registered. The circumstances clearly reflect that the allegations made against the Applicant, are fabricated and have not an iota of truth.

14. Also, there is a delay of one day in the registration of FIR while the incident happened on the night of 18.08.2022. The matter was reported only



on the next day i.e. 19.08.2022, which further corroborates that it is a motivated Complaint registered on account of the enmity between the Applicant and the victim's elder brother.

15. It is argued that this is further corroborated by the Medical Record. As per the MLC, there was no injury on the private part of the Applicant. As per the FSL Report, the DNA profiling also does not implicate the Accused in any manner.

16. It is also submitted that the Accused is in judicial custody since 19.08.2022. The Charges have already been framed and the victim has already been examined. No fruitful purpose would be served in further detention of the Applicant. It is, therefore, submitted that the circumstances justify the release of the Applicant on Bail.

17. ***Learned Additional Public Prosecutor*** on the other hand, has contended that the MLC reflects multiple abrasions from neck to waist. Moreover, the victim as PW-1 has fully corroborated the case of the Prosecution, in his testimony. The CCTV unfortunately could not be obtained of the area. The trial is almost at the fag-end as the Investigating Officer alone remains to be examined.

18. It is submitted that the explanation for non-matching of the DNA of the victim and the Accused, are that as per the Complaint, the Applicant took the bath and made the victim to do so.

19. Learned Prosecutor has further argued that the contention of the Applicant that the victim's evidence has already been recorded, is fallacious in so much as the Applicant has moved an Application under Section 311 Cr.PC seeking recall of the victim for his further cross-examination. The



danger to the life of the victim is imminent. The Bail is, therefore, strongly opposed.

Submissions heard and the record perused.

20. The allegations against the Applicant are serious wherein a 14 year old young boy has been allegedly subjected to aggregative penetrative sexual assault by the Applicant. Insofar as, the contentions of the Accused in regard to the non-matching of DNA is concerned, it is sufficiently explained by the fact that the Applicant had taken the bath and made the victim also take his bath, after the commission of the alleged offence. The non-matching of DNA is, therefore, quite understandable.

21. Learned counsel for the Applicant has further argued that there was no injury to the private part of the Applicant, but he has failed to notice that the Applicant himself is a matured man of about 26 years and the marks of the alleged sexual assault on the victim, are clearly reflected in his MLC, which shows that the victim had abrasions from his neck to waist.

22. It is also contended that the conduct of the victim was unnatural insomuch as that he never raised any alarm while accompanying the Applicant to his house and also did not narrate the incident to his brother, till the next day and that there is a delay of one day in reporting the incident. This argument fails to take note of the young age of the victim boy, who was barely 14 years old. It is quite likely for a child to be intimidated when shown a blade and threatened. Moreover, this aspect is a matter of trial and merely because no alarm was raised as per the case of the Prosecution, cannot be considered as a factum to disbelieve the Statement of the victim, at the stage of Bail especially when he has fully corroborated the case of the Prosecution in his testimony as PW-1.



23. In this context, it needs to be mentioned that an Application under Section 311 Cr.P.C. for recall of victim is pending consideration, before the learned ASJ. The victim is sought to be recalled for further cross-examination. The contention of the Applicant that there is no likelihood of threatening or intimidating the victim, whose testimony has already been recorded, therefore, is not tenable.

24. As has been submitted by the learned Prosecutor, the Prosecution Case is at the fag-end with essentially the Investigating Officer remaining to be examined.

25. Considering that the trial is likely to get concluded soon and also the gravity of the offence, no case is made out for grant of Regular Bail.

26. It is hereby clarified that the observations made herein, are not an expression on the merits of the case.

27. The Bail Application is hereby dismissed and disposed of accordingly. The pending Application, if any, also stands disposed of.

(NEENA BANSAL KRISHNA)
JUDGE

OCTOBER 08, 2025/RS