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

+ BAIL APPLN. 938/2025 & CRL.M.A. 7049-7051/2025, CRL.M.A. 16785/2025

MOHD SULTAN KHAN

.....Petitioner

Through: Mr. Ali Aariz, Mr. Manoj Kumar Sharma, Mr. Nitish Kumar Mishra, Ms. Kamini Yadav and Mr. Utkarsh Tripathi, Advocates.

versus

THE STATE NCT OF DELHI & ANR.

.....Respondents

Through: Mr. Mukesh Kumar, APP for the State.

PSI Shakuntala, PS: Jamia Nagar.

Mr. Amit Tiwari, CGSC with Ms. Ayushi Srivastava and Mr. Ayush Tanwar, Advocates for UOI.

Mr. Asthar Alam, Advocate for the Complainant.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

27.05.2025

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1. The present application filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023¹ (formerly Section 439 of the Code of Criminal Procedure, 1973²) seeks regular bail in the proceedings arising from FIR No. 106/2024 registered under Sections 376/323/420/506/341 of the Indian Penal Code, 1860³ at P.S. Jamia Nagar. Subsequently,

¹ "BNSS"

² "Cr.P.C"

³ "IPC"



chargesheet has been filed against the Applicant under Sections 376/323/420/506/343/467/500/509 of IPC.

2. The case of the prosecution is summarised as follows:

2.1. The FIR was registered on the basis of a complaint lodged by the victim, “S”, who stated that she was employed as a General Duty Assistant at Women’s Neeyati Hospital, Nehru Nagar. She alleged that the Applicant, originally from her native village but residing in Riyadh, Saudi Arabia, approached her with a purported job opportunity in a Riyadh-based hospital. Acting on his suggestion, she applied for and obtained a passport in 2022, which she was instructed to submit at “Bharati Print Point.” Later, the Applicant informed her that only family visas were being issued. For this purpose, the Applicant had forged a *Nikah Nama* portraying him and the victim as husband and wife. The victim, on the Applicant’s instructions, procured this *Nikah Nama* from his residence at their native village. Based on this document, the victim secured a visa and travelled to Riyadh on 20th September, 2023.

2.2. Upon arrival, she was taken to the Applicant’s residence where, as alleged, he sexually assaulted her and subjected her to repeated physical abuse. When she expressed her desire to return to India, the Applicant arranged for her travel and she returned to Delhi. Post return, she severed contact with him, but alleged that he had hacked her WhatsApp and threatened to defame her if she did not stay in touch. She claimed that these threats adversely affected her impending marriage.

2.3. The victim underwent medical examination at AIIMS Hospital and her statement under Section 164 of Cr.P.C was recorded on 21st March, 2024, reaffirming her allegations.

2.4. On 22nd March, 2024 an application was forwarded to the DCP office



for opening a Look Out Circular⁴ against the Applicant.

2.5. During investigation, the victim named one Pramod, owner of Bharati Print Point, to whom she had handed over her passport. He joined the investigation on 27th March, 2024, and his mobile phone was examined. It was revealed that, acting on the Applicant's instructions, he had couriered documents to "Al Arabia Travel," Lucknow, on 5th October, 2022. Copies of the courier receipt and relevant WhatsApp messages were produced the next day and seized.

2.6. On 1st April, 2024, the victim produced photographs of injuries allegedly inflicted by the Applicant, along with a pendrive containing an audio clip in which the Applicant purportedly confessed to forging the *Nikah Nama* and physically assaulting her. These were seized and a further notice was issued for production of the original mobile device containing the media files.

2.7. On 9th April, 2024, SI Satender conducted a search at the Applicant's residence, which was found locked. Local inquiries revealed that the Applicant had been residing in Saudi Arabia for the last 4-5 years and had not returned to India for the past 1.5 years. Family members who allegedly signed the *Nikah Nama* were also examined. Abdul Mabood Khan, the Applicant's father, was stated to be paralysed and receiving treatment in Lucknow, while another relative, Abdul Ajeeb Khan, was performing Umrah. Both denied having signed any *Nikah Nama*.

2.8. On 16th April, 2024, an LOC was issued against the Applicant for a period of one year. On 22nd April, 2024, one Mr. Ayaz Ahmad joined the investigation and admitted under Section 161 of Cr.P.C that he had translated the *Nikah Nama* at the Applicant's request. On 1st May, 2024, an

⁴ "LOC"



extradition request was initiated. On 7th May, 2024, a request for sanction under Section 188 of Cr.P.C was also made.

2.9. On 12th May, 2024, information was received from immigration authorities that the Applicant had been detained at Lucknow Airport. He was produced before the Magistrate, his mobile phone was seized, and he was remanded to judicial custody for 14 days.

2.10. Handwriting specimens of the Applicant and victim were taken and forwarded to FSL, Rohini for analysis. A transcript of the audio clip was prepared and appended to the chargesheet. The voice sample of the Applicant is yet to be taken and will be submitted through a supplementary chargesheet.

3. Counsel for Applicant urges the following in support of the Applicant's request for bail:

3.1. The investigation has been complete and chargesheet has been filed, thus no fruitful purpose will be served by keeping the Applicant in custody.

3.2. There has been an inordinate delay of approximately 8 months in obtaining prior sanction from the Central Government, which has resulted in the prolonged detention of the Applicant and constitutes a violation of his fundamental rights guaranteed under Article 21 of the Constitution of India, 1950.

3.3. That the Applicant and the victim were in a consensual relationship since 2016. The allegations levelled against the Applicant are false, malicious, and fabricated. The Applicant had been financially assisting the victim for several years, and that she has instituted the present complaint only after he declined to continue providing monetary support.

3.4. That there is a delay of nearly 5 months in the registration of the FIR, which casts serious doubt on the veracity of the prosecution's case.



3.5. The Applicant has no prior criminal antecedents and is the sole breadwinner of his family, consisting of his wife and 4 children. He undertakes to comply with all conditions that may be imposed by this Court in the event of his release on bail.

4. *Per contra*, Mr. Mukesh Kumar, APP for the State, strongly opposes the bail application. He submits that the allegations against the Applicant are grave and disclose serious offences, including rape, wrongful confinement, and criminal intimidation. It is alleged that the Applicant lured the victim with the promise of a job abroad, wrongfully confined her, and thereafter subjected her to sexual assault and physical violence. The Applicant is further alleged to have threatened the victim with defamation, claiming access to her personal WhatsApp data. In view of these circumstances, it is contended that there exists a real apprehension that the Applicant may seek to influence the victim or tamper with the evidence if released on bail.

5. The Court has considered the afore-noted contentions and perused the material on record. The investigation has been complete and chargesheet has been filed. As per the Nominal Roll, as on 21st April, 2025, the Applicant has been in custody for 11 months and 10 days. During this period, his conduct in jail has remained satisfactory and no adverse report has been brought to the notice of the Court.

6. *Prima facie*, while the allegations are serious in nature, it cannot be ignored that the relationship between the parties was not entirely impersonal or casual. The Applicant has produced digital communication, financial transactions, and other material in suggesting a prior association between the Applicant and the victim. The evidentiary value of this material, and the extent to which it supports or undermines the prosecution's case, will ultimately have to be tested at trial. At this stage, however, the Court is



required only to undertake a *prima facie* assessment based on the material available, without venturing into a detailed evaluation of its probative worth. Thus, *prima facie* there is an existence of a prior consensual relationship between the Applicant and the victim.

7. The delay in registration of the FIR also merits cautious consideration. The FIR came to be lodged on 20th March, 2024, nearly five months after the alleged incident. Though the victim may have experienced trauma or hesitation in approaching law enforcement – a factor that must not be discounted, the delay, nonetheless, introduces a factual circumstance that may assume significance during trial. The Court is mindful that such delay, by itself, is not determinative, but it is a factor that may cast doubt on the sequence of events and must be weighed appropriately in the larger matrix.

8. The allegation that the Applicant facilitated the victim's travel to Saudi Arabia on the strength of a forged marriage certificate raises serious questions concerning intent, knowledge and complicity. Whether the *Nikah Nama* was in fact fabricated, and if so, whether the victim was misled by it or was complicit in its preparation, are matters that fall squarely within the realm of trial. These are factual determinations that require scrutiny of oral and documentary evidence and cannot be conclusively resolved at this stage.⁵ However, it cannot be disputed that the victim voluntarily relied upon the said certificate to undertake international travel.

9. The Applicant has no prior criminal antecedents and the prosecution has not placed any material to show that he poses a flight risk or that he may tamper with evidence or influence witnesses if enlarged on bail. He has been in prolonged incarceration and, as per record, is the sole breadwinner for his family comprising his wife and four children.



10. In view of the foregoing and taking into account the settled principles governing grant of bail, namely, the nature of accusations, severity of punishment, *prima facie* evidence, likelihood of the accused fleeing justice or tampering with evidence, and the duration of custody already undergone, this Court is of the view that the continued detention of the Applicant is not warranted at this stage.

11. The Applicant is, therefore, directed to be released on bail on furnishing a personal bond for a sum of INR 25,000/- with one surety of the like amount, subject to the satisfaction of the Trial Court/Duty MM, on the following conditions:

- a. The Applicant shall cooperate in any further investigation as and when directed by the concerned IO;
- b. The Applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case or tamper with the evidence of the case, in any manner whatsoever;
- c. The Applicant shall under no circumstance leave the country without the permission of the Trial Court;
- d. The Applicant shall appear before the Trial Court as and when directed;
- e. The Applicant shall provide the address where he would be residing after his release and shall not change the address without informing the concerned IO/ SHO;
- f. The Applicant shall not reside within 3 km radius of the residence of the victim and shall also furnish proof of his residence to the concerned IO. The Applicant shall also not move in the vicinity of the victim in any manner;

⁵ *Sangitaben Shaileshbhai Datanta v. State of Gujarat*, (2019) 14 SCC 522



- g. The Applicant shall, upon his release, give his mobile number to the concerned IO/SHO and shall keep his mobile phone switched on at all times;
12. In the event of there being any FIR/DD entry / complaint lodged against the Applicant, it would be open to the State to seek redressal by filing an application seeking cancellation of bail.
13. It is clarified that any observations made in the present order are for the purpose of deciding 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.
14. The bail application is allowed in the afore-mentioned terms.

SANJEEV NARULA, J

MAY 27, 2025
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