



2025:DHC:9441



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

% *Reserved on: 26th September, 2025*
Pronounced on: 29th October, 2025

+ **CRL.M.C. 1780/2025**

I
Through Mother

.....Petitioner
Through: Ms. Mudita Sharda, Ms. Gayatri
Nandwani, Mr. Adrian Abbi and
Mr. Mohit, Advocates

versus

1. **STATE OF NCT OF DELHI**
Through SHO Welcome

2. **GULFAM MALIK**
S/o Jabardin
R/o C-8/15, Gali No.08,
Kabir Nagar, North East, Delhi.

.....Respondents
Through: Mr. Shoaib Haider, APP with SI Kriti
Singh and PSI Payel Kumari.
Mr. Ankit Tandan, Adv. for R-2

CORAM:
HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T

NEENA BANSAL KRISHNA, J.

1. Petition under Section 528 read with Section 483(3) of the Bharatiya
Nagarik Suraksha Sanhita, 2023 has been filed to challenge the Order dated
05.12.2024 whereby Bail has been granted to the Respondent No. 2 in FIR
No. 0561/2024 dated 09.10.2024 under Section 64(2) BNS and Section 6
POCSO at P.S. Welcome.

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2. The *brief facts* are that the Petitioner is the daughter of Respondent No. 2, who had made the allegations that her father was in a habit of sexually assaulting her since she was 10 years old. At the time of making the Complaint, she was around 17 years of age. According to her, the regular exploitation of Petitioner, has been continuing for at least past 07 years, by Respondent No. 2, her own father.

3. As per the Petitioner, the Respondent No. 2 used to regularly kiss her on the lips and put his hands inside her clothes; used to touch her breasts and insert her fingers in the private parts. He used to threaten that if she ever disclosed this fact to anyone, then he would throw the Petitioner's mother out of the house. The Petitioner stated that she was assaulted by her father whenever they both were alone at home or when Petitioner's mother went out to pick her daughter from the different school. The Petitioner ultimately confided in a mother, which was followed by a huge fight. Thereafter, Petitioner's mother decided to take her to Petitioner's maternal grandmother and they decided to put an end to the atrocities of the Respondent No. 2 by getting the FIR registered.

4. The Bail Application dated 27.11.2024 filed on behalf of the Respondent No. 2 in the Court of Sessions, was strongly opposed by the State as the allegations were serious and there was every likelihood of his threatening the Petitioner and her mother.

5. The date of birth of the Petitioner was verified which established that she was a minor and it was a case under POCSO Act.

6. The learned ASJ, however, granted Bail *vide* impugned Order dated 05.12.2024, without imposing any condition. The Petitioner was constrained to make a PCR call to the Police on 16.02.2025 at around 05.45 PM when



the Respondent misused the Bail granted to him and tried to threaten the Petitioner. The acknowledgment of the PCR call dated 16.02.2025 has been placed along with the Application.

7. The Petitioner is aggrieved with the Order granting Bail dated 05.12.2024 and has challenged it *on the grounds* that the learned ASJ had passed the Bail Order mechanically without taking into consideration that the Chargesheet was yet to be filed. The Respondent No. 2 is the father of the Petitioner and they live in close proximity to each-other, but no safeguard had been provided to Petitioner or condition imposed on Respondent No. 2, while granting Bail. It has not been considered that Petitioner was consistent in her allegations against Respondent No. 2 in the Complaint and her statement recorded under Section 183 BNSS.

8. The trial is yet to commence and Petitioner and her mother are the most vulnerable and can be easily intimidated. It has not been considered by the learned ASJ that a minor child was traumatized by her own father and could not remember the exact date of the incident, but on the alleged date of incident, i.e. 02.08.2024 the Respondent No. 2 had an off for weekly Friday *namaz*. The allegations, therefore, cannot be held to be totally impossible.

9. The delay in registration of FIR was due to the stigma associated with sexual offences. It can also not be overlooked that the Accused was none other than the Petitioner's own father. The delay could not have been a deciding factor for grant of Bail. The gravity and seriousness of the offence and the situation of the Petitioner *vis-à-vis* Respondent No. 2, has not been considered.

10. It has also not been appreciated that in the matters of sexual assault, conviction can be made on the sole testimony of the Victim. Hence, it is



submitted that the Order dated 05.12.2024 granting Bail to the Respondent No. 2, may be set aside.

11. ***The Status Report filed on behalf of the State*** reiterates the details of the Complaint. It is further stated that the Respondent No. 2 was duly interrogated after the registration of FIR on 09.10.2024 and was arrested by the Police. The information of his arrest was given to his brother Furkan on his mobile phone. The medical examination and the potency test was got done on 09.10.2024. The statement of the Petitioner was recorded under Section 183 BNSS, in which she corroborated her statement on which FIR was registered. The date of birth of the Petitioner was verified from the school records of Government Girls Senior Secondary School, New Jafrabad, Delhi as 01.10.2008.

12. The Notice under Section 94 BNSS was given to the Depot Manager, DTC Burari, Delhi, to provide the employment details of Respondent No. 2 and his duty roster. As per the record, he was present for double shift duty on 01.08.2024 and was on rest on 02.08.2024. The CCTV footage of DTC bus No. EV4134 and DL51EV4219 for 01.08.2024, were also sought from the DTC Depot. The attendance record of the Petitioner was also obtained from the school for 01.08.2024 and 02.08.2024. As per the attendance record, it was declared a school holiday on 01.08.2024 and she was absent on 02.08.2024. Likewise, the attendance register of the younger sisters 'B' and 'A' of the Victim, for 01.08.2024 and 02.08.2024 reflected that 01.08.2024 was declared a holiday and they were all absent on 02.08.2024. After completion of investigations, the Chargesheet has been filed against the Respondent No. 2 on 20.01.2025.



13. The **Respondent No. 2/ Gulfam Malik has submitted** that FIR is essentially prompted by the matrimonial dispute between him and his wife. The Prosecutrix has failed to give the date of last incident with certainty and has stated it to be 01.08.2024 and 02.08.2024. He is a Conductor in DTC bus and was on duty on 01.08.2024 as has been confirmed by the IO. He was also on duty for half day on 02.08.2024.

14. The Chargesheet already stands filed and the charges have been framed. The Respondent No. 2 has never abused the liberty of Bail, and therefore, no ground is made out for setting aside the Bail Order dated 05.12.2024.

Submissions heard and record perused.

15. It is case where the Prosecutrix, who was aged about 16 years, had made a Complaint on 09.10.2014 making allegations of having been sexually assaulted by her own father since the age of 10 years and the last incident happened on 01.08.2024 or 02.08.2024.

16. The **first aspect** which cannot be ignored that the allegations made in the Complaint are serious in nature, but at the same time, as stated in the Complaint, the Prosecutrix told her mother about this incident of 01.08.2024 and 02.08.2024, on which there was a huge fight between her mother and father. Her mother along with her, went to the maternal grandparents house where they consulted and thereafter, made this Complaint on 08.10.2024.

17. It cannot be overlooked that there is a matrimonial dispute *inter se* the husband and wife, as has been stated by the Respondent No. 2. While delay in registration of FIR or of reporting the alleged sexual assault which may have been happening for the last many years, cannot be considered at the stage of Bail, since it is a known fact that where the Victim is sexually



assaulted by her close family member, she may have reluctance to report the incident to the other family members, but at the same time, once the Bail has been granted to Respondent No. 2 after about 02 months of judicial custody, it cannot be termed as a ground to set aside the Bail already granted. This is more so, as there is no averment that the Respondent No.2 has ever abused his liberty, since the day he was released on Bail. While the trial courts are expected to show extreme sensitivity in such cases especially when the alleged perpetrator is allegedly the victims own father, but in the absence of any cogent reasons, recall of the Bail Order is not merited, at this stage.

18. The *second aspect* which has been highlighted is that a blanket Bail has been granted without imposing any conditions to ensure the safety and security of the Prosecutrix, especially when the Respondent No. 2 is none other than the father of the Prosecutrix.

19. It has been rightly contended that the stringent conditions should have been imposed while granting a Bail and the learned ASJ has failed to impose any condition.

20. In the given circumstances, the Bail Order dated 05.12.2024 is hereby modified to the extent that Bail granted is subject to following conditions:

- a) The Respondent No. 2 shall not indulge in any criminal activity and shall not communicate with or come in contact with the witnesses;
- b) The Respondent No. 2 shall not stay near the Petitioner/Complainant and shall not threaten the Petitioner/Complainant and her mother and the other witnesses in any manner;



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- d) The Respondent No. 2 shall appear before the Court as and when the matter is taken up for hearing;
 - e) The Respondent No. 2 shall provide his mobile number/changed mobile number to the IO concerned, which shall be kept in working condition at all times;
 - f) The Respondent No. 2 shall not indulge in any criminal activity and shall not communicate or intimidate the witnesses;
 - g) In case the Respondent No. 2 changes his residential address, the same shall be intimated to learned Trial Court and to the concerned I.O.
21. The copy of this Order be communicated to the learned Trial Court for information.
22. The Petition along with pending Applications, if any, is accordingly disposed of.

(NEENA BANSAL KRISHNA)
JUDGE

OCTOBER 29, 2025

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