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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 1072/2025**

AAKASH

.....Petitioner

Through: Mr.Vineet, Advocate

versus

STATE (GNCT OF DELHI) THROUGH SHORespondent

Through: Mr. Sanjeev Sabharwal, APP for State
with SI Niraj, PS Nihal Vihar

CORAM:

HON'BLE MR. JUSTICE ARUN MONGA

ORDER

20.08.2025

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1. Under incarceration for the past about five years, applicant herein seeks regular bail in case arising out of FIR No. 867/2020 dated 29.08.2020, under Sections 323/376(2)(n)/506/109/34 of the IPC and Section 6 of the POCSO Act, registered, at police station Nihal Vihar, Delhi.

2. Per the FIR, the case of the prosecution is that the complainant/survivor was friends with the one Sunil who shared her number with the applicant/Aakash. In January, the applicant started continuously calling her and expressing his love. On her refusal, he threatened her by saying that he will tell her family that she talks to boys.

2.1. Somewhere in January 2020, victim, went under threat with the applicant after telling her sisters she was going to a birthday party. Victim was taken to a Hotel where Sunil and Akash met; Akash took her to a room and forcibly had sexual relations. Next day, Akash booked a cab and victim



returned home.

2.2. Few days later, when the survivor's parents were not at home, Akash again sent a cab and victim went to same hotel where Akash again had sexual relations with her. Akash repeatedly forced her to meet him; victim later blocked his number and stopped communication in February 2020.

2.3. On 28/08/2020, victim had severe stomach pain and when she went to AIIMS Hospital with her mother, doctors informed her that she was 7 months pregnant.

3. In view of the aforesaid, I have heard the rival contentions and perused the case file.

4. Learned counsel for the applicant submits that the Petitioner has been falsely implicated in the present case, with which he has no connection whatsoever. He maintains a clean record and has never been involved in any criminal activity except for this false case.

4.1 Learned Counsel further argues that the FIR is a blatant misuse of the legal process, registered by the complainant in connivance with her family members in a calculated and pre-planned manner. The allegations in the complaint are vague, and as a result of this concocted story, an innocent person has been subjected to incarceration.

4.2 It is pointed out that when the alleged incident first occurred, the prosecutrix neither approached the police nor informed her family members or any other person. However, after an unexplained delay of nearly seven months, she lodged an afterthought FIR with false allegations against the Petitioner to cover up her own misdeeds.

4.3 Learned Counsel emphasizes that a plain reading of the FIR, complaint, and statements of the prosecutrix makes it highly improbable that



the alleged incidents occurred as narrated. She claims she was allegedly called by the Petitioner through an Ola cab to a hotel at night and stayed there the entire night, yet none of her family members raised any concern about her absence. Similarly, on a second alleged occasion, she again visited the Petitioner at night without any reaction from her family, which clearly indicates that the prosecutrix was moving about freely and voluntarily.

4.4 Furthermore, the prosecutrix claims that in August 2020 she discovered she was seven months pregnant after being examined at AIIMS Hospital. This improbable conduct suggests that both she and her family were well aware of her pregnancy much earlier, given the advanced stage.

4.5 Learned Counsel also highlights serious discrepancies in the police investigation, particularly concerning the collection of the Petitioner's blood samples, which remain doubtful. The Petitioner has a strong and plausible defense that can be established during trial.

4.6 Lastly, it is submitted by him that the investigation is complete, and both the charge sheet and supplementary charge sheet have been filed before the learned Trial Court. After framing of charges, the prosecutrix and her mother—the only two material witnesses—have already been examined.

5. Opposing the bail plea, learned APP for the State argues that the applicant is not entitled to any relief at this stage, as there remains genuine risk of him absconding and tampering with the evidence.

6. Having heard the submissions and perused the record, I am of the considered view that the applicant deserves to be released on bail during the pendency of the trial. The applicant has already undergone incarceration for nearly five years, the charge sheet stands filed, and there is no further requirement for his continued custody.



7. It is evident that the star witnesses—the prosecutrix and her mother—have been examined. Therefore, any apprehension of the applicant influencing or intimidating them now appears unfounded.
8. The prosecution's case is that the prosecutrix was a minor, aged about 16 years at the relevant time, and that the relationship between her and the applicant resulted in the birth of a child. However, on a prima facie assessment, the material on record does not suggest that the relationship was forcibly imposed on the prosecutrix so as to attract the essential ingredients of Section 376 IPC. As regards other alleged violations, the law will take its own course at trial.
9. Furthermore, as reflected in the nominal roll dated 09.04.2025, the applicant has already remained in custody for approximately five years. Continued incarceration would serve no useful purpose at this stage. Prolonged pre-trial detention amounts to punitive imprisonment even before conviction and runs contrary to the fundamental principle that bail is the rule and jail the exception, particularly when the accused does not pose a flight risk or a threat to the fairness of the trial.
10. Qua the suspicion of applicant tampering with evidence, the same appears to be unfounded as all the evidence qua him has already been seized by prosecution and is beyond his reach.
11. As an upshot and taking a wholesome view of the matter, the applicant is directed to be released on bail on his furnishing personal bond with solvent surety of like amount to the satisfaction of the Trial Court/Duty Judge concerned as the case may be, subject to the other usual conditions to be imposed by the learned Trial Court/Duty Court.
12. Any observation made herein above is only for the purpose of



disposing of the instant bail application and not to be construed, in any manner, as any expression on the merits of the pending case and the trial shall proceed without being influenced either way by the same.

13. Accordingly, the bail application stands disposed of.

ARUN MONGA, J

AUGUST 20, 2025/SV