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

+ **BAIL APPLN. 1076/2025**

ASHUTOSH RANJAN

.....Petitioner

Through: Mr. Rohit Yadav, Mr. Rohit Gupta,
Mr. Devashish Yadav and Mr. Ankit Hooda, Advs.

Versus

STATE GOVT NCT OF DELHI & ANR.

.....Respondents

Through: Mr.Sanjeev Sabharwal, APP for the
State with SI Varsha, P.S. Mehrauli.
Ms Astha, Adv. (from DHCLSC) for
the prosecutrix with Ms. Megha Singh, Adv.

CORAM:

HON'BLE MR. JUSTICE ARUN MONGA

ORDER

13.10.2025

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1. Having remained under incarceration since 22.10.2022 i.e. almost 3 years, in a criminal case arising out of FIR No. 626/2022 dated 20.10.2022, *inter alia*, for the alleged offences punishable under Sections 376, 506, 509 of the IPC, registered at Police Station Mehrauli, the applicant herein seeks bail.
2. Briefly speaking, the case set up by the prosecution per Chargesheet dated 13.12.2022 is that:-



2.1 On 20.10.2022, the Police received a PCR call (vide DD No. 45A) reporting the sexual assault of a female staff member and alleged blackmail by her colleagues.

2.2. According to the complaint, on 16.10.2022, the office staff, including Ashutosh (the present applicant) and Vishal (earlier a co-accused, now discharged), organized a farewell party for a colleague. During the party, the complainant consumed alcohol and became intoxicated. When the group later decided to visit India Gate, she was not allowed to join them due to her condition and remained in the office with Ashutosh and Vishal.

2.3 The complainant alleged that while she was vomiting, Ashutosh took her to the washroom and subsequently laid her on the office sofa. In a semi-conscious state, she felt someone kissing her neck and recognized Ashutosh as the person. She was too weak to resist as he allegedly forced himself upon her and sexually assaulted her in the office warehouse, causing pain and bleeding. Afterward, as she was unable to walk, Ashutosh helped her pull up her trousers and moved her back to the sofa, where she fell asleep.

2.4. When she awoke around 6:30 a.m., she found Ashutosh sleeping in the same room, while the other staff members were in a separate room. She reported experiencing pain and bleeding while urinating the next morning. She also stated that Ashutosh tried to contact her, but she avoided him. Vishal, meanwhile, allegedly mocked and verbally humiliated her in Ashutosh's presence.

2.5. The complainant further stated that she sought help from her colleagues to review the CCTV footage and informed them about the assault, but they did not assist her. Vishal attributed her condition to a hangover and advised her to rest and take medicine. On 18.10.2022, the office manager, Varun,



took her to a counsellor after learning of the incident and assured her of support, later facilitating her return home.

2.6. On 19.10.2022, Ashutosh allegedly confronted and threatened her at the office, which caused her further fear and trauma. Feeling unsafe and unable to inform her family, she contacted the Police on 20.10.2022 via a 112 call. In her complaint, she named Ashutosh as the perpetrator of the sexual assault and Vishal as a co-accused for verbally humiliating and morally insulting her during the incident.

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

4. Learned counsel for the applicant would *inter alia* argue on the lines of grounds pleaded in the application as below:-

4.1 That the applicant has been falsely implicated and has committed no offence whatsoever. Nothing incriminating has been recovered from his possession or even at his instance. The learned Counsel further submits that the applicant has been in custody since 22.10.2022. The investigation now stands concluded, the charge sheet has already been filed, and the trial has commenced. Hence, his further custody is unwarranted for any purpose whatsoever and amounts to pre-trial punishment.

4.2 That all material and public witnesses (PW-1 to PW-6), including the prosecutrix, have already been examined. Only one public witness remains unexamined, but as per prosecution's own submission (Order dated 12.09.2023), the said witness has shifted to Australia. Despite repeated opportunities (Orders dated 18.10.2023, 01.07.2024, 13.09.2024, 02.12.2024 & 10.02.2025), the prosecution has failed to clarify whether the said witness is traceable or intends to be examined.



4.3 That apart from the allegations made by the prosecutrix, there exists no credible or corroborative evidence against the applicant. The allegations are false, and no incident of rape was ever committed. The FIR, examination-in-chief, and cross-examination are inherently improbable and incapable of establishing any offence against the applicant.

4.4 That the prosecutrix has made material contradictions in her complaint, statement under Section 164 CrPC, and deposition before the Court. She has contradicted herself regarding whether she spoke to her brother-in-law before lodging the complaint, whether she washed her clothes, and further admitted that her complaint was written at the instance of the Investigating Officer. The learned Counsel further submits that the alleged incident is said to have occurred on 16.10.2022, whereas the FIR was registered on 20.10.2022, i.e., after a delay of four days. This delay raises the possibility that the prosecutrix may have been tutored or consulted by her family before lodging the present complaint against the applicant.

4.5 That the prosecution itself admits that the prosecutrix was in a drunken and lachrymose state, and colleagues refused to take her to India Gate. At no point was the applicant alone with the prosecutrix in the office during the alleged occurrence. That the learned Counsel further submits that the prosecution case is fundamentally weak as the essential ingredient of rape, i.e., penetration under Section 375 IPC punishable under Section 376 IPC, is absent. Nowhere in the complaint, statement before the Magistrate, or examination before the Court, did the prosecutrix state that the applicant was lying over her, removing her clothes, or that penetration occurred.

4.6 That per the MLC and FSL reports, neither blood nor semen was detected on the prosecutrix's clothes. Despite this, her deposition was



subsequently altered to suit the prosecution's case, even though the FSL results were available to the IO prior to her deposition, demonstrating deliberate manipulation. The learned Counsel further submits that the Medical Examination and Sexual Assault History recorded at AIIMS further demolish the prosecution's case. The prosecutrix repeatedly answered "Not Remember" or "Don't Know" when questioned about penetration in the vagina, anus, or mouth. No external or internal injuries, bruises, or lacerations were found. The medical evidence, therefore, rules out penetration or use of force, both essential ingredients of the alleged offence.

4.7 That the prosecution's story regarding the alleged incident on a "Starbucks Carton" is unsupported by any material on record. No such carton was ever seized. Labourers working at the premises confirmed that no cartons were removed or cleaned, indicating false implication.

4.8 That all five public witnesses (PW-2 to PW-6) have failed to support the prosecution's version. PW-2 stated that the prosecutrix only mentioned that the accused "tried to kiss her forcibly" and recalled the incident faintly; PW-3 neither admitted nor denied that rape occurred; PW-4 deposed that the prosecutrix vaguely stated "something wrong happened" but appeared confused; PW-5 confirmed that the prosecutrix never told him anything about the incident and only asked for water; and PW-6, a psychologist, stated that during counselling, the prosecutrix never directly alleged sexual assault. The prosecutrix's claim of waking up at 4-5 a.m. wearing only a bra also finds no corroboration from any public witness, including PW-3 and PW-5.

4.9 That the prosecution has deliberately withheld crucial CCTV footage. The entire office, including the kitchen and main gate, was under



surveillance, yet only corridor footage was produced. The DVR was not seized. The withheld footage could have shown whether the cameras were switched off or tampered with to bring alcohol or for any other purpose. Such non-production of the best possible evidence invites an adverse inference under Section 114(g) of the Evidence Act.

4.10 That the learned Counsel places reliance on ***Rahul Kumar v. State of Rajasthan, 2024 SCC OnLine SC 1052***, wherein the Hon'ble Supreme Court granted bail to an accused incarcerated for over sixteen months under similar circumstances. The learned Counsel further places reliance on ***Raju & Ors. v. State of M.P., (2008) 15 SCC 133***, wherein the Hon'ble Apex Court held that while rape causes grave distress to victims, false allegations can cause equal distress and humiliation to the accused, who must be protected against false implication.

4.11 That the applicant has clean antecedents, is a permanent resident of Delhi, and poses no risk of absconding, as it is admitted by the prosecution itself that the applicant voluntarily joined the investigation. The learned Counsel further submits that the applicant was earlier granted interim bail on 13.09.2024, complied with all conditions, and surrendered within the stipulated time.

5. Opposing the submissions, the learned APP submits that the allegations under Section 376 IPC are grave and heinous, constituting an offence against the dignity of the victim and society. It is contended that the victim's statement under Section 164 Cr.P.C. is consistent and credible, duly corroborated by the medical examination, witness statements, and other documentary evidence linking the accused to the crime. It is further pointed out that the applicant's earlier bail application was dismissed by the learned



ASJ, Saket Courts vide order dated 31.01.2025. The APP submits that if released on bail, the accused may abscond, endanger the victim's safety, or undermine public confidence in the justice system. It is further submitted that the applicant was medically examined at AIIMS, and though the RFSL report did not yield a male DNA profile from the victim's samples, preventing comparison with the applicant, his continued custody is necessary to ensure a fair trial and prevent misuse of liberty. Hence, it is urged that the present bail petition be dismissed as devoid of merit.

6. Having heard, I am of the view that there may be some substance in some of the arguments addressed on merits by the learned counsel for the applicant, but the same is a matter of trial. However, at this stage, in light thereof, it is otherwise a fit case for bail. Let us see how.

7. All material witnesses, including the prosecutrix, have been examined; one remaining witness is abroad, and the prosecution has failed to secure his presence despite repeated opportunities.

8. *Prima facie* no corroborative evidence supports the prosecutrix's allegations, which are inconsistent and delayed by four days. Medical and forensic reports show no signs of penetration, injury, or semen, undermining the charge of rape. Witnesses failed to support the prosecution's version, and the alleged incident involving a "Starbucks carton" remains unsubstantiated. Crucial CCTV footage and the DVR were withheld, which may justify an adverse inference under Section 114(g) of the Evidence Act.

9. Be that as it may, these observations are being made solely for the purpose of this bail application, and it is for the Trial Court to adjudicate on them at the appropriate stage. Suffice to note, that in view thereof, I am of the opinion that the case for bail is made out.



10. The applicant has been in custody since 22.10.2022 for approximately 3 years. The investigation is over qua him, the chargesheet has been filed and the trial is moving at a snail's pace. This prolonged pre-trial detention, coupled with the slow progress of proceedings, are contributory factors for bail, and further continued incarceration would cause undue hardship to the applicant's family and serve no useful purpose, especially when the trial is not likely to conclude in the near future, as it violates the fundamental rule, i.e. *bail is the rule and jail an exception*.

11. As regards the apprehension of tampering with evidence or influencing witnesses is unfounded and seems illusory. The applicant has cooperated throughout the investigation, and there is nothing on record to suggest that he would interfere with evidence or influence witnesses.

12. There is also no likelihood of the applicant absconding, given that he is a well-settled individual, a permanent resident of Delhi who lives with his family and has deep roots in society, and hence not a flight risk.

13. Considering that the primary purpose of bail is to secure the presence of the accused during trial, coupled with the fact that the applicant has clean antecedents and poses no risk of absconding, his continued detention at this stage would serve no purpose other than to punish him prior to conviction.

14. As an upshot and taking wholesome view of the matter, the applicant is directed to be released on bail on furnishing of bail bond and surety to the satisfaction of the learned Trial Judge/Duty Judge as the case may be and subject to the usual conditions to be imposed by the learned trial Judge/Duty Judge.

15. Nothing observed herein above shall amount to an expression on the merits of the case and shall not have a bearing on the trial of the case as the



same is only for the purpose of the disposing of the present bail application.

16. Accordingly, the bail application stands disposed of.

ARUN MONGA, J

OCTOBER 13, 2025/acm