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

+ **BAIL APPLN. 1331/2025**

SHEKHAR KANSAL

.....Petitioner

Through: Mr. Rajesh Anand, Mr. Jaypreet Singh, Mr. Abhay Tripathi and Mr. Pawan Yadav, Advocates.

versus

STATE NCT OF DELHI & ANR.

.....Respondents

Through: Mr. Hemant Mehla, APP for the State.

Mr. Arun Khatri, Ms. Shelly Dixit, Ms. Tracy Sebastian and Mr. Yogesh Gehlaut, Advocates for Complainant.
Father of victim in person.
SI Himanshu, PS: Rani Bagh.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

14.05.2025

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1. This is the second bail application filed by the Applicant before this Court under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023,¹ seeking grant of regular bail in FIR No. 303/2024 for the offences under Sections 376/376(C)/120-B/354/354(D)/328/323/506 of the Indian Penal Code, 1860² and Sections 6/10/17 of the Protection of Children from Sexual Offences Act, 2012,³ registered at P.S. Rani Bagh.

2. The first bail application filed by the Applicant before this Court

¹ "BNSS"

² "IPC"



[BAIL APPLN. 4735/2024] was dismissed by a detailed order dated 15th January, 2025. Subsequent to the dismissal, the Applicant moved a fresh bail application before the Trial Court under Section 483 BNSS. In the said application, the Applicant raised a new ground for bail, contending that the grounds of arrest were not communicated to him at the time of arrest, thereby rendering the arrest illegal, and entitling him to bail. Counsel for the Applicant submits that although the previous order of this Court, dated 15th January, 2025, makes a reference to this contention in Paragraph No. 4.7, the Applicant had not actually raised this ground in that bail application. In any event, the said order does not deal with or adjudicate upon the issue of non-communication of grounds of arrest. Therefore, the Applicant contends that this constitutes a fresh ground for seeking bail, which he is entitled to urge independently, particularly in view of the alleged illegality in the manner of his arrest. In this regard, the Applicant places reliance on the judgements in *Vihan Kumar v. State of Haryana*⁴, *Pankaj Bansal v. Union of India & Ors.*⁵ and *Prabir Purkayastha v. State (NCT of Delhi)*⁶.

3. The Court has considered the contention raised by the Applicant. Although Paragraph No. 4.7 of the earlier order acknowledges the Applicant's submission regarding non-disclosure of grounds of arrest, the decision does not specifically adjudicate on this ground. Accordingly, the Court is inclined to consider the merits of his ground of challenge.

4. It has been argued that although the arrest memo, prepared in a standard format, records the reasons for arrest, the same cannot be equated

³ "POCSO"

⁴ SLP(CRL.) 13320/2024.

⁵ (2024) 7 SCC 599.

⁶ (2024) 8 SCC 254.



with the communication of the grounds of arrest. It is contended that the grounds of arrest are distinct from the reasons for arrest, and that no such grounds were supplied to the Applicant either on the date of his apprehension on 31st May, 2024, or at any time thereafter. Reliance is placed on **Vihan Kumar**, which affirms the legal position laid down in **Prabir Purkayastha**, in which the Supreme Court, while referring to **Pankaj Bansal**, held that the grounds of arrest must be communicated to the accused in writing and without delay, as mandated by Article 22(1) of the Constitution. Further, the Supreme Court drew a clear distinction between “grounds of arrest” and “reasons for arrest” and held that failure to comply with this requirement invalidates the remand and entitles the accused to bail.

5. While the aforesaid legal proposition is not disputed, the Court is not impressed with the contention of Applicant. Pertinently, apart from the arrest memo, the State had also filed an application seeking the remand of the Applicant. The said remand application stated that detailed interrogation of the accused persons, including the Applicant, was sought to facilitate detailed investigation, as they had employed the same *modus operandi* to cheat other persons. The said application was allowed by the Trial Court *vide* order dated 31st May, 2025, wherein it was noted that police remand of the accused persons was being sought to ascertain their involvement in the use of intoxicating substances and to investigate whether any other individuals, apart from the Prosecutrix named in the present case, had been similarly sexually abused by the accused. It must further be noted that counsel for the Applicant was duly present at the time this remand was granted by the Trial Court.

6. Thus, in the opinion of the Court, the grounds of arrest were duly



communicated to the Applicant at the stage immediately following his arrest, when he was produced before the learned Magistrate and his remand was sought. The reasons set out in the remand application adequately satisfy the requirement of communicating the grounds of arrest to the Applicant. Accordingly, the Court does not find merit in the Applicant's contention that there was a non-communication of the grounds of arrest.

7. It is further pertinent to note that the allegations against the Applicant are grave and of a serious nature. The Applicant is implicated under Sections 376, 376(C), 120B, 354, 354(D), 328, 323, and 506 IPC, as well as Sections 6, 10, and 17 of the POCSO Act, in relation to offences committed against the Prosecutrix, who was only 14 years old at the time of the incident.

8. In view of the above, the Court is of the considered opinion that the grounds urged by the Applicant do not warrant any interference with the earlier decisions passed by this Court or the Trial Court.

9. Accordingly, the Court is not inclined to grant bail to Applicant.

10. Dismissed.

11. Needless to state, any observations concerning the merits of the case are solely for the purpose of deciding the question of grant of bail and shall not be construed as an expression of opinion on the merits of the case.

SANJEEV NARULA, J

MAY 14, 2025

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