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

+ **BAIL APPLN. 1393/2025**

SHUBHAM

.....Petitioner

Through: Mr. Pratyaksh Raj,
Mr. Amit Singh Gaur, Mr.
Surya Ketu Tomar & Mr.
Sumit Kasana, Advs.

versus

STATE NCT OF DELHI

.....Respondent

Through: Mr. Sunil Kumar Gautam,
APP for the State
Counsel for the
Prosecutrix (appearance
not given)

+ **BAIL APPLN. 1397/2025**

SHANKAR LAL

.....Petitioner

Through: Mr. Pratyaksh Raj,
Mr. Amit Singh Gaur, Mr.
Surya Ketu Tomar & Mr.
Sumit Kasana, Advs.

versus

STATE NCT OF DELHI

.....Respondent

Through: Mr. Sunil Kumar Gautam,
APP for the State
Counsel for the
Prosecutrix (appearance
not given)

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

% **29.05.2025**

1. The present applications are filed seeking regular bail in FIR No. 777/2024 ('FIR') dated 18.12.2024, registered at Police Station Burari for offences under Sections 85/316(2)/3(5) of the Bharatiya Nyaya Sanhita, 2023 ('BNS').



2. Briefly stated, the marriage of the applicant Shubham and the victim was solemnised on 05.12.2022. It is alleged that the victim was constantly subjected to cruelty in relation to demand for dowry at the hands of the applicants and her in-laws. It is alleged that the applicant Shubham forced the victim to engage in unnatural sex with him. It is alleged that thereafter in April 2023, the applicant Shankar Lal (father-in-law) kicked the victim as a result of which she suffered a miscarriage.

3. It is alleged that on 28.11.2023, when the victim was resting in her room, the applicant Shankar Lal entered the victim's room and kissed her and also attempted to establish physical relations with her. It is alleged that thereafter on 14.02.2024, the applicant Shankar Lal once again attempted to establish physical relations with the victim.

4. Subsequently, in her statement under Section 164 of the CrPC that was recorded on 08.01.2025, the victim stated that the applicant Shankar Lal on 14.02.2024 had kissed her and had also inserted his finger in her private part.

5. The learned counsel for the applicants submits that the applicants have been falsely implicated in the present case. He submits that there are glaring inconsistencies in the case of the prosecution and the statements of the victim.

6. He submits that the allegations of physical abuse and sexual abuse were not made when the complainant for the first time gave a complaint on 05.03.2024 to the SHO, Police Station Burari, and that the same have been added subsequently in her complaint dated 20.08.2024.

7. He submits that even otherwise, there is substantial delay



in making the allegation as the allegation of sexual assault is stated to have been committed for the last time in the month of February, 2024 and the victim has complained about the same for the first time on 18.12.2024.

8. He submits that the applicant Shubham and the victim were living happily, however, due to interference of the family members of the victim, they started quarrelling. He submits that the present complaint has been filed, owing to the refusal of the applicant Shubham to meet unreasonable demands of the victim.

9. He submits that the victim in her complaint dated 20.08.2024 at CAW Cell, has mentioned that she wants to live with the applicant Shubham.

10. *Per contra*, the learned Additional Public Prosecutor for the State and counsel for the prosecutrix opposes the grant of any relief to the applicants on account of the gravity of the allegations.

11. I have heard the counsel and perused the record.

12. It is settled law that the Court, while considering the application for grant of bail, has to keep certain factors in mind, such as, whether there is a *prima facie* case or reasonable ground to believe that the accused has committed the offence; the nature and gravity of the accusation; severity of the punishment in the event of conviction; the danger of the accused absconding or fleeing if released on bail; reasonable apprehension of the witnesses being threatened; etc.

13. It is the case of the prosecution that the applicants and other in-laws of the victim harassed her for dowry. It is also alleged that the applicant Shubam (husband of the victim) had



done forceful unnatural sex with the victim.

14. It is alleged that the applicant Shankar (father-in-law of the victim) used to touch the victim inappropriately and he had tried to forcibly make physical relations with her in November, 2023. It is further alleged that the applicant Shankar had again tried to make physical relations with the victim in February, 2024 and he had inserted his finger in the private part of the victim.

15. It is not in doubt that mere statement of the prosecutrix is sufficient for establishing the offence of rape. The statement made by the prosecutrix does not require corroboration, if the same inspires confidence.

16. However, it is pertinent to note that while it is unclear as to when the applicant Shubham committed unnatural sex on the victim, the alleged incident of rape took place in February, 2024. For some of the intervening months between the alleged incident and registration of FIR, the victim had returned to her maternal home, despite which, the FIR was only registered on 18.12.2024. No explanation is given to account for the delay in registration of FIR. The Hon'ble Apex Court, in the case of **Meharaj Singh (L/Nk.) v. State of U.P. : (1994) 5 SCC 188**, held as under:

“12. Delay in lodging the FIR often results in embellishment, which is a creature of an afterthought. On account of delay, the FIR not only gets bereft of the advantage of spontaneity, danger also creeps in of the introduction of a coloured version or exaggerated story.”

17. It is also to be noted that the victim had given a complaint to the SHO of Police Station Burari on 05.03.2024 wherein she had made no allegation in relation to rape or unnatural sex. No allegation has been made by the victim in relation to insertion of



finger in her private parts in the FIR either. *Prima facie*, there is substantial improvement in the case of the victim.

18. It is also relevant to note that the victim had tendered a complaint to CAW cell on 20.08.2024 where she had stated that she wants to stay with her husband, that is, the applicant Shubham.

19. While the veracity of the allegations as well as the explanation of the victim for the delay will be tested during the course of the trial, however, at this stage, *prima facie* doubt is cast on the case of the prosecution.

20. The investigation is complete and the chargesheet has already been filed.

21. The object of judicial custody is to secure the presence of the accused persons during the trial. The object is neither punitive nor preventive and the deprivation of liberty has been considered as a punishment.

22. Any apprehensions that the applicant will evade trial or tamper with evidence can be allayed by putting appropriate conditions.

23. In view of the above, the applicants are directed to be released on bail on furnishing a personal bond for a sum of ₹20,000/- with two sureties of the like amount respectively, subject to the satisfaction of the learned Trial Court, on the following conditions:

- a. They 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 cases, in any manner whatsoever;



- b. They shall under no circumstance leave the boundaries of the country without the permission of the Trial Court;
 - c. They shall appear before the learned Trial Court as and when directed;
 - d. They shall provide the address where they would be residing after their release and shall not change the address without informing the concerned IO/ SHO;
 - e. They shall give their mobile numbers to the concerned IO/SHO and shall keep their mobile phones switched on at all times.
24. In the event of there being any FIR/ DD entry/ complaint lodged against the applicants, it would be open to the State to seek redressal by filing an application seeking cancellation of bail.
25. It is clarified that any observations made in the present order are for the purpose of deciding the present bail applications 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.
26. The bail applications are allowed in the aforementioned terms.
27. A copy of this order be placed in both the matters.

AMIT MAHAJAN, J

MAY 29, 2025