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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 1570/2025**

IRFAN KHAN

.....Applicant

Through: Mr. Mohd. Amanullah,
Mr. Misbah Bin Tariq,
Mr. Azhar Ali &
Mr. Mohd. Mustakeem,
Advocates.

versus

STATE GOVERNMENT OF
NCT OF DELHI

.....Respondent

Through: Ms. Kiran Bairwa, APP
for the State with SI
Madhu Bala, PS Amar
Colony.
Mr. Zishaan Iskandari &
Mr. Madhur Mittal, Adv.
for the victim.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

23.05.2025

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1. The present application is filed seeking regular bail in FIR No. 490/2020 dated 24.11.2020, registered at Police Station Amar Colony for offences under Section 363 of the Indian Penal Code, 1860 ('IPC'). Chargesheet in the present case was filed under Sections 363/376/376D/376DA of the IPC and Sections 4/6/17 of the Protection of Children from Sexual Offences Act, 2012 ('POCSO Act').
2. The FIR was registered initially under Section 363 of the IPC on the complaint that the minor victim aged 12 years had



gone missing. The victim was thereafter recovered on 26.11.2020. She revealed that she was sexually assaulted by three accused persons namely Shardeen Khan, Wasim and Kasim Ahmed. The accused persons were thereafter apprehended.

3. In her statement under Section 161 of the Code of Criminal Procedure, 1973 ('CrPC') the victim revealed that the accused persons had taken her to a hotel in Faridabad. The applicant is stated to be the owner of the said hotel. The victim informed that when the police had come searching for her, the applicant had informed the accused Shardeen Khan that the police is looking for him. It is alleged that the applicant facilitated the exit of the accused and the victim from the hotel on 25.11.2020. Applicant was arrested on 28.11.2020 and is in custody since then.

4. The learned counsel for the applicant submits that the applicant happens to be the owner of the hotel where the accused persons had brought the victim. He submits that the applicant was known to one of the accused persons. He submits that no allegation of sexual assault has been made against the applicant. He submits that he being the owner of the hotel, merely provided the room to the accused persons, and that the same cannot be said to be an offence.

5. The learned Additional Public Prosecutor for the State vehemently opposed the grant of any relief to the applicant. She submits that the victim was around 12-13 years of age and the applicant without insisting on any identity/ID card of the victim had given the room to the accused persons. She submits that had the applicant not facilitated the entry of the accused persons in the hotel, the crime would not have taken place.



6. It is informed that none of the witnesses have been examined so far and the trial is unlikely to conclude in the near future. The allegations against the applicant, at this stage, seem to be of facilitating the accused persons to take a room on rent where the victim was sexually assaulted by the accused persons. Whether the applicant was aware of the intention of the accused persons to commit the offence or not would be tested during the course of trial and ought not to be commented upon at this stage. However, considering that the applicant has spent a substantial period in incarceration, this Court is of the view that the applicant is entitled to be released on bail.

7. The applicant is, therefore, admitted on bail and is directed to be released (if not required in any other case) on furnishing a personal bond for a sum of ₹20,000/- with two sureties of the like amount, subject to the satisfaction of the learned Trial Court, on the following conditions:

- a. The applicant 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 case, in any manner whatsoever;
- b. The applicant shall under no circumstance leave the country without the permission of the learned Trial Court;
- c. The applicant shall appear before the learned Trial Court as and when directed;
- d. The applicant shall provide the address where he would be residing after his release and shall not change the address without informing the concerned IO/ SHO;
- e. The applicant shall, upon his release, give his mobile number to the concerned IO/SHO and shall keep



his mobile phone switched on at all times.

8. In the event of there being any FIR/DD entry/complaint lodged against the applicant, it would be open to the State to seek redressal by filing an application seeking cancellation of bail.

9. It is clarified that any observations made in the present order are for the purpose of deciding the present bail application 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.

10. The bail application is allowed in the aforementioned terms.

AMIT MAHAJAN, J

MAY 23, 2025

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