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

+ **BAIL APPLN. 1613/2025**

PARMATHMA KUMAR YADAVApplicant

Through: Mr. Adarsh Kr. Tiwari &
Mr. Vinit Pathak, Advs.

versus

STATE OF NCT OF DELHIRespondent

Through: Ms. Richa Dhawan, APP
for the State.

WSI Parul, PS Shastri
Park.

Ms. Neha, Adv. Amicus
Curiae.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

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07.07.2025

1. The present application is filed seeking regular bail in FIR No. 430/2024 ('**FIR**') dated 31.08.2024, registered at Police Station Shastri Park for the offences under Sections 64(1)/351(3) of the Bharatiya Nyaya Sanhita, 2023 ('**BNS**').

2. The FIR was registered on a complaint given by the prosecutrix. It is alleged that the prosecutrix had come to Delhi in search of work and had thereafter stayed in Faridabad with her friend. It is alleged that when the prosecutrix was unable to find work, she came to Delhi and stayed in Rain Basera from where she contacted the applicant who was known to her. Thereafter on 26.08.2024, the applicant took the prosecutrix to his brother's house in Shastri Park. It is alleged that on 29.08.2024, when the applicant's brother was not at home, the applicant forcefully established physical relations with the prosecutrix and also threatened her of dire consequences should she try to escape or



inform about the alleged incident to anyone. Thereafter, on 30.08.2024, the prosecutrix informed about the said incident to her neighbour and asked her to call the police.

3. The applicant was thereafter arrested on 31.08.2024 and is in custody since then.

4. The learned counsel for the applicant submits that the applicant is innocent and has been falsely implicated in the present case. He submits that there are material discrepancies in the version of the prosecutrix which casts a doubt on the veracity of the case of the prosecution.

5. He submits that as per the statement of the prosecutrix which led to the registration of the FIR, on 29.08.2024 when the applicant's brother was away, the applicant allegedly established forceful relations with the prosecutrix and also threatened her against disclosing about the same to anyone. He submits that thereafter as per the version of the prosecutrix, on 30.08.2024 she informed about the alleged incident to her neighbour and asked her to call the police.

6. He submits that as opposed to the version narrated by the prosecutrix which led to the registration of the FIR, in her statement under Section 183 of the Bharatiya Nagarik Suraksha Sanhita 2023 ('BNSS'), the prosecutrix stated that in the evening of 29.08.2024, the applicant allegedly administered some medicine to her and thereafter established physical relations with her. He submits that as per the prosecutrix, she deciphered that the applicant had raped her because she was bleeding. He submits that it is the prosecutrix's own case that she was undergoing her menstrual cycle at that time.



7. He further submits that the prosecutrix, in her statement under Section 183 of the BNSS, stated that on the following day, she ran out of the room and went to the terrace whereafter the applicant brought some alcohol and compelled her to consume it. He submits that it is the prosecutrix's case that she screamed which subsequently led to a crowd being assembled and that someone from the crowd thereafter made a call to the police. He submits that the said discrepancy in the version of the prosecutrix on the factum of the manner in which the alleged incident took place and the manner in which the complaint was given casts a doubt on the case of the prosecution.

8. He submits that such doubts are further augmented by the fact that the prosecutrix refused to undergo any internal medical examination which creates a doubt on the allegations and the benefit of which ought to be accorded to the applicant at this stage.

9. *Per contra*, the learned Additional Public Prosecutor for the State and the learned *amicus curiae* vehemently oppose the grant of any relief to the applicant. They submit that the allegations against the applicant are serious in nature. They submit that specific allegations have been made against the applicant that he forcefully established physical relations with the prosecutrix. They submit that the prosecutrix refused to undergo medical examination as she was suffering from typhoid.

10. I have heard the counsel and perused the material on record.

11. At this stage, the case of the prosecution is essentially premised upon the statement of the prosecutrix. Undoubtedly, for offences under Section 64 of the BNS, the conviction of the



accused can be sustained ~~openly~~ upon the statement of the prosecutrix as long as the same is consistent and inspires confidence.

12. Having noted that, it cannot be ignored that *prima facie* there are certain inconsistencies in the case of the prosecution. In the statement that led to the registration of FIR, the prosecutrix stated that on 29.08.2024, when the applicant's brother was away, the applicant forcefully established physical relations with her. Subsequently, in her statement under Section 183 of the BNSS, the prosecutrix stated that the applicant administered some medicine to her and thereafter committed rape on her. The prosecutrix further stated that she unravelled that the applicant had committed rape on her because she was bleeding.

13. A perusal of her statement under Section 183 of the BNSS reveals that it is the prosecutrix's own case that she was undergoing her menstrual cycle during the time and was bleeding when the alleged incident took place. The stance of the prosecutrix that she came to know that the applicant had raped her because she was bleeding on one hand, and that she was already undergoing her menstrual cycle at the time when the alleged incident took place on the other hand casts a doubt in the story of the prosecution at this stage in the absence of any medical examination.

14. It is also relevant to note that it is the case of the prosecution that the applicant had administered some medicine to the prosecutrix and had thereafter raped her. However, at this stage, nothing has been brought forth to corroborate that the applicant had administered any medicine to the prosecutrix.



15. While this Court does not deem it apposite to comment upon the inconsistencies that emerge in the present case at this stage since the strength and veracity of the case of the prosecution would be tested during the course of the trial, however, considering the nature of the evidence presented at this stage, this Court is of the opinion that the applicant has *prima facie* made out a case for grant of bail. Whether the applicant sexually assaulted the prosecutrix and committed the alleged offence or not would be examined during the course of the trial, however, the benefit of such inconsistencies at this stage cannot be denied to the applicant.

16. The applicant is in custody since 31.08.2024. It is pertinent to note that the investigation is complete and that the chargesheet has already been filed in the present case. Further, any apprehension in relation to tampering of evidence or threatening of witnesses can be allayed by imposing appropriate conditions.

17. In view of the above, the applicant is directed to be released on bail 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 not reside within 5 kms radius of the locality where the prosecutrix resides;
- d. The applicant shall appear before the learned Trial Court as and when directed;
- e. 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;
- f. 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.

18. 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.

19. 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.

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

AMIT MAHAJAN, J

JULY 7, 2025