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

+ **BAIL APPLN. 2498/2022**

KANCHAN SINGH (IN J.C.)

.....Petitioner

Through: Mr. Varun Mittal, Adv. (through VC)
with Mr. Vivek Sansanwal, & Mr.
Vishal Kumar Choudhary, Advs.

versus

THE STATE & ANR.

.....Respondents

Through: Ms. Shubhi Gupta, APP for the State.
SI Sonu Kumar, P.S. Okhla
Industrial Area.
Mr. Harshit Jain, Adv. (DHCLSC)
with Mr. Rahul Kumar & Mr.
Shubham Singh, Advs. for the
complainant.

CORAM:

HON'BLE MR. JUSTICE AMIT SHARMA

ORDER

10.02.2025

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1. This hearing has been done through hybrid mode.
2. The present application under Section 439 read with Section 482 of the Cr.P.C. seeks regular case in Case FIR No. 753/2021 under Section 376 of the IPC and 4 of the Protection of Children from Sexual Offences Act, 2012 (for short, 'POCSO Act') registered at P.S. Okhla Industrial Area.
3. The case of the prosecution as per the status report dated 30.11.2022 authored by Inspector J.K. Singh, SHO, P.S. Okhla Industrial Area is as follows:

“1. That on 03.10.2021, victim came to police station Okhla Ind. Area and alleged that on 10.08.2021, accused took the



victim/complainant to his room in Noida and served her cold-drink, after which victim felt dizziness. When she came to her senses, her lower body clothes were opened and accused was not present there. She went at her home and felt the pain in her body. After some time accused sent victim's nude photo to Mr. Pappu, who is victim's relative.

2. On the basis of the above complaint, the present case U/s 376 IPC & 4 POCSO Act was registered against the present applicant/accused and thereby he was arrested on 04.10.2021 and since he is running in Judicial Custody.

3. That during investigation, the victim was medically examined at AIIMS, New Delhi vide MLC No 8422/2021, wherein doctor mentioned that patient "N"; 15 yr old girl make friendship with one Kanchan Singh through her friend Kashish, while working as ward boy in Yatharth Hospital in sector 11 Noida, UP. On 10/08/2021 at around 3 pm, three of them went out for finding new job and reached to Kanchan's house near hospital in Sector-11 Noida. From there, Kashish left out to her house for getting her Aadhar card and did not come back. Kanchan offered cold drink to "N", at his home after which she got unconscious. On waking up at around 8 pm, she found that her lower body clothes to be partially removed and no one was around her. She went to her home. After that, she got repeated phone calls for one week and since her nude photos from Kanchan were received to her and her brother phone."

4. Thereafter, on 04/10/2021 accused Kanchan Singh was arrested and thoroughly interrogated and he was medically examined vide MLC No. 8452/21, wherein doctor opined that "there is nothing found to suggest that the above-mentioned person is incapable of performing sexual intercourse under ordinary circumstances" and handed over blood in gauze of the accused which was taken into police possession through seizure memo.

5. Further statement Vis 164 C.r.P.C. of prosecutrix was got recorded and in which she corroborated the facts of FIR and after that she was produced before CWC.

6. Further age documents of prosecutrix were received from SDMC Pratibha School, Harkesh Nagar, Okhla Ph-2, New Delhi as per which Date of birth of victim is 05/10/2007.

7. Further mobile phone of accused and Pappu S/o Lt. Sh. Prem Pal were seized and same were sent to FSL to retrieve the data. After completion of the investigation chargesheet was submitted before the Hon'ble trial court on 04/12/2021 and the same is



pending for trial.

8. The CDR of mobile numbers being used by accused (9625240239) and victim (9654525090) from 08/08/21 to 03/10/21 have been obtained from the concerned mobile service providers and analyzed. As per their CDRs, they called each other 28 times during this duration.

9. The charges have been framed on 21/04/2022 and the case is pending for trial in which NDOH is fixed before the Hon'ble Session Court for 07.01.2023. This case is listed for prosecution evidence on NDOH and witnesses are yet to be examined.

10. On basis of above stated facts and gravity of offence said bail petition is being opposed.”

4. Learned counsel appearing on behalf of the applicant submits that the survivor/complainant has been examined before the learned Trial Court and various contradictions have surfaced in her testimony. It is submitted that the present FIR was registered after a delay of 53 days from the date of alleged incident. It is pointed out that the case of the survivor was that the applicant had sent some objectionable photographs of the survivor to her relative, however, the said evidence was shown to the survivor during the course of her testimony and she refused to identify herself. It was argued that the applicant was working as a ward boy in Yatharth Hospital, Sector 110, Noida, Uttar Pradesh and in fact, got the survivor a job in the said hospital.

5. It was further pointed out that CDR details have been placed by the prosecution which shows that the survivor was in constant touch with the applicant from the date of alleged offence *i.e.*, 10.08.2021 till 03.10.2021.

6. *Per contra*, learned APP for the State assisted by the learned counsel appearing on behalf of the survivor/complainant submits that the survivor/victim has been examined before the learned Trial Court who has supported the case of the prosecution. It is further stated that the age of the survivor was 14 years at the relevant time of the alleged incident.



7. Heard the learned counsel for the parties and perused the records.
8. The case of the prosecution is that in the initial complaint, the survivor had alleged that on 10.08.2021, the applicant had forwarded the objectionable photos to her relative. Attention of this Court has been drawn to the examination-in-chief of the survivor, during which the survivor after seeing the data did not identify her objectionable photos and videos from the same.
9. It was also noted that the survivor had stated that she had given a fake Aadhar Card to get a job at Yatharth Hospital and further stated that the said Aadhar Card was prepared by the applicant. She has further admitted in her cross-examination that she continued to talk with the applicant on the mobile phone even after the alleged incident *i.e.*, 10.08.2021. In her cross-examination, she admits that her parents had objections with regard to her speaking with the present applicant and for this reason they had broken her phone and SIM. It is also pertinent to note that the alleged incident is of Noida and there are no other allegations of any incident taking place in Delhi. The FIR was registered on 03.10.2021 after a delay of 53 days during which period she was in constant touch with the applicant.
10. The applicant is in custody since 04.10.2021. All the material witnesses *i.e.*, the survivor and her mother have been examined. Out of 13 prosecution witnesses, 3 have been examined. The applicant is not involved in any other case.
11. In totality of the facts and circumstances, the present application is allowed. The applicant is directed to be released on bail, on his furnishing a personal bond of Rs. 15,000/- with one surety of like amount, to the satisfaction of the learned Trial Court/Link Court, further subject to following conditions:



- i. The applicant shall not leave India without prior permission of the learned Trial Court.
 - ii. The applicant shall intimate the learned Trial Court by way of an affidavit and to the concerned Investigating Officer regarding any change in residential address.
 - iii. The applicant shall appear before the learned Trial Court as and when the matter is taken up for hearing.
 - iv. The applicant is directed to give his mobile number to the concerned Investigating Officer and keep it operational at all times.
 - v. The applicant shall not, directly or indirectly, tamper with evidence or try to influence the witness in any manner.
12. The application is allowed and disposed of accordingly.
13. Pending application(s), if any, also stand disposed of.
14. Needless to state, nothing mentioned hereinabove is an opinion on the merits of the case and any observations made are only for the purpose of the present bail application.
15. Copy of the order be sent to the concerned Jail Superintendent for necessary information and compliance.
16. Order be uploaded on the website of this court *forthwith*.

AMIT SHARMA, J

FEBRUARY 10, 2025/kr/sc

[Click here to check corrigendum, if any](#)