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

+ **BAIL APPLN. 1985/2025**

GYANENDER KUMAR

.....Petitioner

Through: Mr. K.K. Manan, Senior Advocate
alongwith Ms. Udit Bali, Ms.
Karmanya Singh Choudhary and Ms.
Savita Sethi, Advocates

versus

STATE(NCT OF DELHI) AND ANR.

.....Respondents

Through: Mr. Naresh Kumar Chahar, APP for
the State with SI Akansha, P.S.
Maidan Garhi, Delhi

CORAM:

HON'BLE DR. JUSTICE SWARANA KANTA SHARMA

ORDER

08.07.2025

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1. By way of the instant application, the applicant seeks grant of regular bail in case arising out of FIR bearing no. 38/2023, registered at Police Station Maidan Garhi, Delhi for the commission of offence punishable under Sections 354/376(2)(11)/313/313 of the Indian Penal Code, 1860 (hereafter 'IPC') and Section 6 read with Section 5(l)(j)(ii) & (p), Section 10 r/w 9(p) of the Protection of Children from Sexual Offences Act, 2012 (hereafter 'POCSO Act').
2. Briefly stated, the facts of the present case are that a complaint had been lodged by the prosecutrix on 18.01.2023, pursuant to which the present



FIR had been registered. It was alleged by the prosecutrix that in the year 2012, when she was studying in 9th standard and was approximately 14 years of age, she had been attending a coaching centre for tuition classes. The accused, who used to teach at the said coaching centre, had allegedly indulged in inappropriate behaviour with her. The present applicant/accused had also taken the prosecutrix to a place at Palam, Delhi on 12.10.2012 where he had sexually assaulted her. Thereafter whenever she used to be alone at home, he used to have physical relations with her against her consent. It was further alleged that till the year 2017, the accused had continuously assured her that he would marry her, and on that false pretext, had forcibly established physical relations with her. In April 2022, when the prosecutrix had become pregnant, the accused had taken her to Radha Nirmal Hospital, Mahipalpur, Delhi, where he had got her pregnancy terminated. Subsequently, she had come to know that the accused was already married. When she had confronted him regarding the same, he had physically assaulted her. However, thereafter, he had again assured her that he would obtain divorce from his wife and marry her. In August 2022, the accused had taken a room on rent in Mahipalpur, Delhi, where he had sexually assaulted her on several occasions on the false promise of marriage. He had also subjected her to physical assault. It has further been alleged that whenever the prosecutrix had resisted the sexual assault or confronted the accused, he had physically assaulted her.

3. The learned senior counsel for the applicant argues that apart from the vague and untenable allegations made in the FIR, no specific culpability can be attributed to the applicant, and the material witnesses, namely the prosecutrix (PW-1) and her mother (PW-2), have already been examined



and cross-examined, rendering further custody of the applicant unnecessary, especially when the investigation is complete and the chargesheet has already been filed. It is contended that there is an unexplained and inordinate delay of nearly ten years in the registration of the FIR, as the alleged incidents pertain to the year 2012, while the FIR was registered only in 2023, raising serious doubts about the prosecutrix's version and suggesting manipulation of facts with an ulterior motive. The learned senior counsel submits that the prosecutrix was under no threat or fear for an entire decade and had ample opportunity to report the matter but remained silent until disputes arose between the parties, thereby reflecting the false and motivated nature of the allegations. It is argued that the prosecutrix has concocted false allegations concerning incidents of 2012 and 2013, without any credible evidence, whereas it is on record that the applicant only came into contact with the prosecutrix in 2017-2018 when she was a consenting adult, and all subsequent interactions were consensual. The learned senior counsel submits that the prosecutrix was fully aware of the applicant's marital status since 2017 yet continued the relationship and later resorted to threats and blackmail, including PCR calls in July and November 2022, which did not result in any formal case, and the present FIR dated 18.01.2023 is a retaliatory action filed to falsely implicate the applicant. It is further argued that there are material improvements and inconsistencies in the prosecutrix's successive statements, and her inability to identify the alleged place of occurrence at Palam or substantiate her possession of a mobile phone in 2012, coupled with her failure to produce evidence regarding her alleged pregnancy and medical complications in 2013, render her version unreliable. It is also pointed out that despite alleged serious health concerns, she neither



informed her family nor sought medical treatment, which appears unnatural, and call detail records reveal that the prosecutrix was in contact with the applicant's family members, allegedly with the intent to exert pressure and blackmail him. The learned senior counsel further submits that documentary evidence establishes that the applicant was not even in Delhi during 2012-2013 but was working in Bhubaneswar and Dehradun, and only returned to Delhi in 2022. It is argued that the prosecutrix has abused the process of law by filing false and calculated allegations solely to harass the applicant, which is evident from the WhatsApp chats placed on record where the prosecutrix herself admits facts that contradict her allegations. Thus, it is prayed that the present applicant be released on bail.

4. The learned APP for the State, on the other hand, argues that the present application is liable to be dismissed, especially when an earlier bail application of the applicant was already rejected by this Court *vide* order dated 19.10.2023. It is submitted that the allegations are grave and involve repeated sexual exploitation of the complainant. The delay in lodging the FIR, it is argued, is sufficiently explained by the applicant's continued false assurances of marriage and emotional manipulation. It is contended that the alleged contradictions and delay pointed out by the learned senior counsel are immaterial at this stage, as the testimony of the prosecutrix carries independent evidentiary value. It is further submitted that the applicant's release may lead to tampering with evidence or influencing witnesses, and considering the seriousness of the allegations, no grounds for bail are made out.

5. This Court has **heard** arguments addressed by the learned senior counsel for the applicant and the learned APP for the State, and has perused



the material on record.

6. The case of the prosecution, in brief, is that in the year 2012, when the prosecutrix was around 14 years of age and studying in Class 9, the applicant, under the false promise of marriage, had sexually assaulted her on multiple occasions. It is alleged that the applicant continued to exploit the prosecutrix till 2022, during which period he also caused her pregnancy and facilitated its termination. The prosecutrix later discovered that the applicant was already married, following which, upon being subjected to further harassment and assault, she lodged the present FIR on 18.01.2023.

7. This Court notes that the previous bail application of the present accused/applicant was dismissed by this Court *vide* order dated 19.10.2023. In the said order, this Court had observed that in view of the seriousness of the allegations and the fact that the prosecutrix had not yet been examined, no ground for grant of bail was made out at that stage.

8. The applicant has approached this Court at this stage, primarily on the ground that the prosecutrix and her mother, who are the material witnesses in the present case, have now been examined and cross-examined by the defence, and as such, the apprehension of influencing these witnesses no longer survives. The applicant has further sought bail on the ground of merit, contending that there are material contradictions and improvements in the statements of the prosecutrix, coupled with discrepancies regarding the place of occurrence and other aspects of the prosecution's case, including medical records and call detail records, which, according to the applicant, cast serious doubt on the credibility of the allegations.

9. This Court notes that it is not in dispute that the examination-in-chief and cross-examination of the prosecutrix and her mother, who are the



material witnesses of the prosecution, have already been concluded during the course of trial. At this stage, therefore, the apprehension that the applicant may influence these witnesses or tamper with their testimony does not survive.

10. It is further noted that the applicant has remained in judicial custody for about two and a half years. The case, as projected by the prosecution, pertains to alleged incidents which occurred as far back as in 2012 and thereafter, whereas the FIR came to be registered in 2023. The defence has drawn the attention of this Court to certain inconsistencies and contradictions in the statements of the prosecutrix. While this Court is not expected to undertake a detailed appreciation of evidence at this stage, it cannot be ignored that the material witnesses have already been examined, and the trial is likely to take considerable time for its conclusion.

11. Having regard to the totality of circumstances, the stage of the trial, and the period of custody (two and a half years) undergone by the applicant, this Court is of the considered view that the applicant has made out a case for grant of bail. Therefore, the applicant is granted regular bail, on his furnishing personal bond in the sum of Rs.25,000/- with one surety of the like amount, subject to the satisfaction of the learned Trial Court/Successor Court/Link Court/Duty Judge concerned on the following terms and conditions:

- i) The applicant shall not leave the country without prior permission of the concerned Court and if the applicant has a passport, he shall surrender the same to the concerned trial court.
- ii) In case of change of residential address/contact details, the applicant shall promptly inform the same to the concerned Court



and IO/SHO concerned.

iii) The applicant shall appear regularly before the learned Trial Court, unless exempted.

iv) The applicant shall not communicate with, or come into contact with the complainant or any of the prosecution witnesses, or tamper with the evidence of the case.

12. Accordingly, the present bail application stands allowed and is disposed of.

13. It is, however, clarified that nothing expressed hereinabove shall tantamount to an expression of opinion on merits of the case.

14. The order be uploaded on the website forthwith.

DR. SWARANA KANTA SHARMA, J

JULY 08, 2025/ns

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