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

+ **BAIL APPLN. 2303/2025**

NEERAJ

.....Petitioner

Through: Ms. Sakshi Aroira, Ms. Kinika,
Ms. Nishita Gupta and Ms. Bhaviya,
Advocates.

versus

STATE NCT OF DELHI

.....Respondent

Through: Ms. Inderjeet Sidhu (DHCLSC),
Mr. Lalit Choudhary and Mr. Aditya
Ranjan, Advocates for Prosecutrix.
Mr. Amit Ahlawat, APP for State.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

% **06.11.2025**

1. The present application filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023¹ (formerly Section 439 of the Code of Criminal Procedure, 1973²) seeks regular bail in FIR No. 303/2024 registered at P.S. Vijay Vihar for the offences under Sections 64(1) and 351 of the Bharatiya Nyaya Sanhita, 2023³ and Section 6 of the Protection of Children from Sexual Offences Act, 2012.⁴

2. The case of the Prosecution, in brief, is as follows:

2.1. The FIR was registered on a complaint lodged by the victim, a minor girl aged 15 years at the time of the alleged incident. In her complaint, the victim states that her family resides on the 4th floor of the building in which the Applicant and his family live on the 2nd floor. She alleged that in 2023,

¹ "BNSS"

² "Cr.P.C."

³ "BNS"

⁴ "POCSO Act"



the Applicant expressed romantic interest in her and proposed to her, which she declined. Despite her refusal, he persisted with proposals whenever opportunity arose, began sending her messages, and followed her on occasions. On 22nd July, 2024, at about 8:00 PM, when she was alone at home, the Applicant came to her residence and forcefully established sexual relations with her. Again, on 8th August, 2024, the Applicant came to her residence and asked her to open the door. She initially refused. On hearing her father arrive on his scooter, she opened the door; the Applicant allegedly entered and attempted to forcibly take her into a room. At that point, her father reached the spot, apprehended the Applicant, and informed the police.

2.2. The victim was thereafter medically examined and the FIR came to be registered.

2.3. The statement of the victim was recorded under Section 183 of the BNSS. Her age was verified from the records of her school, which confirmed that she was 15 years old at the time of the alleged incident. The Applicant was 19 years old at the said time.

2.4. The Applicant was arrested on 10th August, 2024. Upon completion of the investigation, chargesheet was filed against the Applicant. By order on charge dated 6th November, 2024, charges were framed against him for the offences under Sections 64(2)(m), 65(1), 123, 351, and 78(1)(i) of the BNS and Sections 6 and 12 of the POCSO Act.

3. Counsel for the Applicant seeks bail on the following grounds:

3.1. The Applicant is innocent and has been falsely implicated in the present case. The statements of the victim, recorded at different stages, contain material contradictions and inconsistencies, casting serious doubt on the veracity of the allegations levelled against the Applicant.



3.2. The victim declined medical examination. As a result, there is no medical or forensic corroboration on record. The prosecution case rests solely on the victim's testimony, which is marred by significant internal inconsistencies and is therefore unsafe to accept, at least for the limited purpose of denying bail.

3.3. In the FIR, the victim alleged that the incident occurred on 22nd July, 2024. However, the Applicant was in fact in Haridwar from 21st July, 2024 to 1st August, 2024. Confronted with this, the victim improved her version in her testimony, stating that the date mentioned earlier was approximate. This, amounts to clear improvement in her statement to suit the Prosecution's case.

3.4. The Applicant was arrested on 10th August, 2024, and has remained in judicial custody for nearly one year and three months. The investigation has been completed, the chargesheet filed, charges framed, and the victim has already deposed before the Trial Court. Therefore, the possibility of the Applicant tampering with evidence or influencing witnesses is remote.

3.5. Although the first alleged incident is stated to have occurred on 22nd July, 2024, no complaint was made at that time. The FIR came to be registered only on 10th August, 2024, pursuant to the alleged incident dated 8th August, 2024, and even then, after an unexplained delay of two days.

4. On the other hand, Mr. Amit Ahlawat, APP for the State, as well as Ms. Ms. Inderjeet Sidhu, counsel for the victim, oppose the he application. They submit that the Applicant stands accused of repeated sexual assault upon a minor, an offence of the gravest kind carrying a severe sentence under POCSO. The age of the victim is to be proved from official records, rendering any plea of consent legally immaterial. Reliance is placed on the



victim's statements, which are said to be consistent on material particulars, and on the statutory presumption under the POCSO Act. It is further urged that release at this stage poses a risk of intimidation of the victim and other witnesses, and may impede the trial.

5. The Court has considered the rival submissions. At this stage, it is neither necessary nor appropriate to embark upon a mini-trial or to return findings that may prejudice either side. Since both parties have placed substantial reliance on the evidentiary record, a limited, prima facie appraisal is undertaken solely for deciding this application, mindful of the gravity of the charge, the presumption of innocence, and the statutory framework of the POCSO Act.

6. The prosecution case rests substantially on oral testimony; there is no medical or forensic corroboration presently fortifying the allegation. In law, the testimony of the victim, if found wholly credible and trustworthy, may by itself sustain a conviction, and the State emphasises that the victim has supported the prosecution in her deposition. That submission is noted. However, any appraisal of weight, sufficiency, or the nature of the parties' prior interactions would trench upon the merits and is best left to the Trial Court once the evidence is fully tested. For the limited purpose of bail, the enquiry centres on the material presently available, the stage of the proceedings, and the risks of abscondence, repetition, or interference, while keeping in view the seriousness of the accusation.

7. The victim's complaint refers to two incidents dated 22nd July, 2024 and 8th August, 2024, while her deposition before the Trial Court adds an earlier incident said to have occurred in June, 2024. The defence has pointed out variations in the narration surrounding the occurrence of 8th August,



2024 that do not find place in the initial complaint. The weight, credibility, and legal effect of these accounts are matters for the Trial Court after the evidence is fully tested. For the limited purpose of bail, the fact that the principal witness has already been examined, and the present posture of the trial together furnish a prima facie basis to consider conditional release.

8. Although the allegations levelled by the victim relate to incidents occurring on more than one earlier occasion, no complaint appears to have been made at that time. Even the last alleged incident of 8th August, 2024 was reported after a delay of two days, with the FIR being lodged on 10th August, 2024. The legal consequence of such delay will be for evaluation at trial; at the bail stage, the absence of prompt reporting is another circumstance that marginally weighs in favour of the Applicant.

9. The record also reflects that the victim was 15 years old and the Applicant was 19 years old at the time of the alleged incident and they were acquainted as neighbours and used to play together, as per victim's own account. While the seriousness of the offence alleged under the POCSO Act remains undiminished, the relatively narrow age difference between the parties and the nature of their prior familiarity have been recognised as relevant considerations at the stage of adjudicating a bail application under the POCSO Act.⁵ These circumstances, when considered along with the stage of proceedings, weigh in favour of granting bail, subject to safeguards that ensure protection of the victim and the integrity of the trial.

10. The Supreme Court has in catena of cases held that the object of granting bail is neither punitive nor preventative. The primary aim sought to be achieved by bail is to secure the attendance of the accused person at the

⁵ Dharmander Singh @ Saheb v. State (Govt. of NCT, Delhi), BAIL APPLN. 1559/2020.



trial.⁶ The Applicant has a clean record with no criminal antecedents. As per the nominal roll on record, he has undergone custody for a period of 11 months and 4 days as on 23rd July, 2025. Therefore, as on date, he has been in detention for over 1 year and 3 months. The Applicant's conduct, both over the past year and overall, have been reported as satisfactory. The trial is at an advanced stage and the victim's and her parents' testimonies stand recorded. The Applicant and his family have shifted from the locality where the victim presently resides, thereby mitigating the apprehension of influence or intimidation. In such circumstances, the apprehensions expressed by the State regarding the possibility of the Applicant absconding, threatening the victim or otherwise interfering with the ongoing proceedings can be suitably addressed by imposing stringent conditions while granting bail.

11. The Applicant is, therefore, directed to be released on bail on furnishing a personal bond for a sum of INR 25,000/- with one surety of the like amount, subject to the satisfaction of the Trial Court/Duty MM, on the following conditions:

- a. The Applicant shall cooperate in any further investigation as and when directed by the concerned IO;
- b. 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;
- c. The Applicant shall not contact the victim or any of her family members;

⁶ See also: *Sanjay Chandra v. CBI*, (2012) 1 SCC 40; *Satender Kumar Antil v. Central Bureau of Investigation*, (2022) 10 SCC 51.



- d. The Applicant shall under no circumstance leave the country without the permission of the Trial Court;
 - e. The Applicant shall appear before the Trial Court as and when directed;
 - f. 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;
 - g. The Applicant shall not reside within 3 km radius of the residence of the victim and shall also furnish proof of his residence to the concerned IO. The Applicant shall also not move in the vicinity of the victim in any manner;
 - h. 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;
 - i. The Applicant shall report to the concerned PS on first Friday of every month;
12. 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.
13. 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.
14. The bail application is allowed in the afore-mentioned terms.

SANJEEV NARULA, J

NOVEMBER 6, 2025

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