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

+ **BAIL APPLN. 2362/2025**

ROHAN

.....Petitioner

Through: Mr. Kashmir Singh and Mr. Jitender
Kumar, Advocates

versus

THE GOVT OF NCT OF DELHI

.....Respondent

Through: Mr. Naresh Kumar Chahar, APP for
the State.
Complainant-in-person.

CORAM:

HON'BLE DR. JUSTICE SWARANA KANTA SHARMA

ORDER

23.09.2025

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1. By way of this application, the applicant seeks grant of regular bail in case arising out of the FIR bearing no. 500/2024, registered at Police Station Mahendra Park, Delhi, for the commission of offences punishable under Sections 70/61(2)/123 of the Bharatiya Nyaya Sanhita, 2023 (hereafter '*BNS*').

2. Briefly stated, the present FIR was registered at the instance of prosecutrix 'J', who disclosed that she used to work in a factory in Bhalswa Dairy, where one Rohan (the present applicant) also used to work as a Manager, and one of his friends, namely Akash, used to come to meet him. She further stated that the said persons had planned to go for a party, for which they had managed to convince the prosecutrix. It was alleged that on



the intervening night of 03/04.08.2024, the applicant Rohan had picked her from Outer Ring Road alongwith his two other friends in a car for the party; but the prosecutrix knew only one of the friends, i.e. Akash, and did not know the name of another friend who was driving the car, whom both of them used to call as *bhai*. Allegedly, first they had gone to Murthal and had dinner. Thereafter, allegedly, they had taken the prosecutrix to Hotel Park in Mahendra Park, where they had given her something in a cold drink, due to which she had become semi-conscious; and thereafter, all three of them had made sexual relations with her one by one in the hotel room against her consent while she was in semi-conscious state. On these allegations, the present FIR was registered on 03.10.2024

3. During the course of the investigation, medical examination of the prosecutrix was conducted on 03.10.2024 *vide* MLC no. 259313, wherein she had refused her internal examination. On 04.10.2025, her statement under Section 183 of BNSS was recorded, wherein she had reiterated her allegations. Thereafter, the present applicant Rohan and co-accused Aakash were arrested from their house at the instance of the prosecutrix. It is the prosecution's case that during the investigation, the co-accused Akash had disclosed the name of the third accused as Piyush, who was his friend for about six years and used to live in Punjabi Bagh, Delhi, in whose white Swift car, they had taken the prosecutrix on the day of the incident to the spot. The next day, co-accused Piyush was arrested and a white Swift car bearing no. DL5CU2789 was seized from his possession.

4. During further investigation, the police had seized CCTV footage of Hotel Park along with relevant documents and hotel records. The footage, though found to be approximately 2 hours and 20 minutes ahead of real



time, showed that the prosecutrix and all three accused had checked in at the hotel around 4:40 AM and had checked out around 1:08 PM on the same day. Hotel records also reflected their names and identity documents corresponding to the entries in the register. Thereafter, a judicial Test Identification Parade of both the car and co-accused Piyush were conducted; however, the prosecutrix failed to identify either co-accused Piyush or his car. Pursuant thereto, co-accused Piyush was granted bail by the learned Sessions Court on 28.10.2024. Upon completion of the investigation, charge sheet was filed, and the case is now at the stage of arguments on the charge. The co-accused Akash was granted bail by this Court *vide* order dated 05.05.2025

5. The learned counsel appearing for the applicant/accused submits that the applicant has been falsely implicated in the present case, and considering the falsity of the allegations levelled by the prosecutrix, co-accused Akash has already been granted bail by this Court *vide* order dated 05.05.2025, while another co-accused Piyush, had been released on bail by the learned Sessions Court *vide* order dated 28.10.2024. It is argued that the present applicant is languishing in jail since 03.10.2024, despite the role attributed to the present applicant being identical to that assigned to these two co-accused by the prosecutrix. Further, it is contended that the prosecutrix has given contradictory statements at all stages and has retracted her allegations in respect of co-accused Akash, and had also failed to identify co-accused Piyush in TIP. It is also argued that the investigation in the case has already concluded, while the trial is yet to commence, which will take time; thus, it is prayed that the present bail application be allowed.

6. The victim/prosecutrix is present in person and states that she does



not want to engage a counsel, and that the learned APP for the State will present her case.

7. The learned APP for the State has opposed the bail application, submitting that the role of the present applicant is distinct and graver from that of the other co-accused persons who have been granted bail, since the allegations of rape are primarily directed against him. It is thus prayed that the present bail application be dismissed.

8. This Court has **heard** the arguments addressed by the learned counsel for the applicant and the learned APP for the State and victim/prosecutrix, and has also perused the material on record.

9. This Court notes that the main edifice on which the entire prosecution's case is based is that the present applicant Rohan, along with two persons i.e. Akash and Piyush, had committed rape upon the prosecutrix while she was in a semi-conscious state, in a hotel on the intervening night of 03/04.08.2024. During investigation, the CCTV footage of the Hotel was obtained and it was found that the prosecutrix, alongwith all three accused, had checked in at the hotel around 4:40 AM and had checked out around 1:08 PM on the same day.

10. However, it is a matter of fact that though it was the specific case of prosecution that the accused persons had taken the prosecutrix to the Hotel in a white Swift car which belonged to co-accused Piyush, the prosecutrix failed to identify both the co-accused Piyush as well as his white Swift car; thus, he was granted bail by the learned Sessions Court.

11. Thereafter, when the bail application of co-accused Akash was being heard by this Court, the prosecutrix appeared and stated that Akash had not committed sexual assault upon her, although specific allegations in this



regard were made by her in the FIR, statement under Section 183 of BNSS and during her medical examination. Taking note of the conduct of the prosecutrix, this Court, while granting bail to co-accused Akash, had observed as under:

“16. Before parting with this case, this Court is constrained to note that it is deeply perturbed by the conduct of the prosecutrix, who had initially made grave allegations of gang rape against three individuals, resulting in their incarceration, and has now chosen to retract her statements in part, singling out the present applicant. It is also relevant to note that she had also earlier refused to recognize the third accused Piyush in TIP even though as per investigation conducted, he was the third person with the prosecutrix on the day of alleged incident. Such conduct, in this Court's view, often leads to dilution of the seriousness of genuine cases of sexual assault. When a prosecutrix makes multiple consistent statements at different stages - before the Magistrate, the police, the doctor who has medically examined her and thereafter makes a contrary statement, when she appears before the court hearing a bail application qua a particular accused later in Court, totally exonerating him of the allegations of the sexual assault, it not only weakens the prosecution case which rests on her testimony but also burdens the justice delivery system and the investigating agency, who relying on her statement, register a case of sexual assault, conduct investigation, file chargesheet and the Courts of law conduct hearings and invest judicial time dealing with such cases. More importantly, it causes irreversible harm to the accused, against whom society forms an opinion the moment such an accusation is made. The accused in such circumstances, considers himself fortunate, if he at least gets bail from a court of law.”

12. Thus, it is evident in this case that the prosecutrix has given contradictory statements at different stages regarding the role of accused persons, which is coupled with the fact that the complaint was lodged by her after a period of about 2 months from the date of alleged incident. The applicant herein has been in judicial custody since 03.10.2024. The investigation is complete and chargesheet already been filed before the concerned Court.

13. Considering the overall facts and circumstances of the case, the period



of custody of the applicant, and the material contradictions in the statements of the prosecutrix made before police, Magistrate, doctors as well as this Court, as discussed above, this Court is inclined to grant regular bail to the present accused/applicant on his furnishing personal bond in the sum of Rs.20,000/- with one surety of the like amount to the satisfaction of the 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.
14. The application stands disposed of in the above terms.
15. It is, however, clarified that nothing stated herein shall tantamount to an expression of opinion on the merits of the case.
16. The order be uploaded on the website forthwith.

DR. SWARANA KANTA SHARMA, J

SEPTEMBER 23, 2025/zp