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

+ **BAIL APPLN. 2920/2024 & CRL.M.A. 24487/2024**

MUKESH SHUKLA

.....Petitioner

Through: Mr. Hemant Singh, Ms. Urvashi Jain,
Mr. Abhinav Tathagat and Mr. Ashish
Bainsla, Advocates.

versus

STATE NCT OF DELHI AND ANR.

.....Respondents

Through: Mr. Sanjeev Sabharwal, APP for the
State with Ms. Mansi Sharma,
Advocate.

SI Kuldeep Singh, P.S. Sunlight
Colony.

Ms. Smriti Sinha and Ms. Sara
Shrawani, Advocates for R-2.

CORAM:

HON'BLE MR. JUSTICE AMIT SHARMA

ORDER

% **08.05.2025**

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 bail in case FIR No. 58/2021, under Sections 363/366/376 of the IPC and Section 6 of the Protection of Children from Sexual Offences Act, 2012 (for short, 'POCSO Act'), registered at P.S. Sunlight Colony.
3. The case of the prosecution as per status report dated 17.09.2024, authored by the SHO, P.S. Sunlight Colony, is that on 02.03.2021, the complainant, who is the mother of the survivor came to police post Sarai Kale Khan and gave her written complaint regarding the missing status/kidnapping



of her daughter. It is further stated that efforts were made to trace the survivor and on 10.04.2021 she was traced from Surat, Gujarat. During her medical examination she had stated that she ran away with the present applicant to Poonapatiya in Gujarat on her own will. During investigation, in her statement under Section 164 of the Cr.P.C., the survivor had stated that she and the applicant were good friends and on 28.02.2021, they had gone to Seven Wonders park and when she reached home late, her mother scolded her. It is stated that that survivor then went to her sister-in-law's house and contacted the applicant telephonically and apprised him that she does not want to reside at her house. It is further stated that, thereafter, the survivor left her house for Hazrat Nizamuddin Railway Station where she met the applicant and they both went to Jaipur and later on went to Surat, Gujarat. On 07.03.2021, the applicant and the survivor got married at a temple and were living as husband and wife.

4. During further investigation, Section 376 of the IPC and Section 6 of the POCSO Act were added in the present FIR. It is also the case of the prosecution that the survivor got pregnant. Her pregnancy was later terminated and the DNA sample from the foetus matched with the present applicant. After completion of investigation, the chargesheet stands filed and the matter is at the stage of prosecution evidence.

5. Learned counsel for the applicant submits that the applicant was aged 23 years at the time of incident. It is further submitted that during her cross-examination before the learned Trial Court, the survivor has maintained her stand that she had gone with the applicant on her own volition and had stayed with him at Surat, Gujarat. It is further submitted that the material witnesses including the mother of the survivor has since been examined and the



applicant has been in judicial custody since the date of arrest, *i.e.*, 13.04.2021, and no useful purpose would be served by keeping the applicant in further judicial custody.

6. *Per contra*, learned APP for the State, on instructions of the Investigating Officer, submits that the survivor was admittedly a minor at that relevant point of time and the FSL report regarding DNA confirms the applicant to be the biological father of the aborted foetus. It is further submitted that the offence is serious in nature and therefore the present application is opposed.

7. Heard learned counsel for the parties and perused the records.

8. Admittedly, the survivor in her statement under Section 164 of the Cr.P.C. as well as in her testimony before the learned Trial Court has maintained her stand that she had gone voluntarily with the applicant. The survivor has given an explanation in detail of her travels with the present applicant and them staying at Surat. All the relevant witnesses including the mother of the survivor have been examined. The applicant has been in judicial custody since the date of his arrest, *i.e.*, 13.04.2021, which brings his custody period to nearly 4 years. As per the nominal roll dated 09.03.2025, the applicant is not involved in any previous offence.

9. In totality of the facts and circumstances of the case, 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 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 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.
- vi. The applicant and his family members shall not, directly or indirectly, contact the survivor or her family members.
10. The application is allowed and disposed of accordingly.
11. Pending application(s), if any, also stand disposed of.
12. 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.
13. Copy of the order be sent to the concerned Jail Superintendent for necessary information and compliance.
14. Order be uploaded on the website of this court *forthwith*.

AMIT SHARMA, J

MAY 8, 2025/bsr/sc

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