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

+ **BAIL APPLN. 2925/2025**

SUNDER

.....Petitioner

Through: Ms.Sangeeta Gaur, Advocate

versus

THE STATE NCT OF DELHI

.....Respondent

Through: Ms.Priyanka Dalal, APP for the State
alongwith SI Manish Phogat, P.S.-
Mehrauli

CORAM:

HON'BLE MR. JUSTICE ARUN MONGA

ORDER

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05.08.2025

CRL.M.A. 22720/2025 (Exemption)

Exemption allowed, subject to all just exceptions.

The application stands disposed of.

BAIL APPLN. 2925/2025

1. Under incarceration since 16.10.2024, the applicant seeks indulgence of this Court to accord him concession of bail during pendency of the trial in FIR No. 440/2024 registered at Police Station Mehrauli for offences punishable under Sections 376/420 IPC.
2. *Inter alia*, conceded allegations made by the complainant-prosecutrix are that she was induced into a consensual relationship with the complainant 8 years prior to the registration of the date of the FIR. Her allegation also is that she was also meted out with sexual assault, when she protested against the applicant's ill motives and eventually he succeeded in his designs by



blackmailing her as he had managed to obtain her obscene photographs and videos which though, it transpires were never recovered from the applicant. More of it in the succeeding paragraph.

3. Complainant-prosecutrix initially filed a complaint filed under Section 156 of the Cr.P.C. which was later converted into the FIR question, which in verbatim, is reproduced as below:-

“1. That the complainant is a law abiding citizen of India and she along with his family members have been residing at the above said address. 2. That in the month of January, 2016, the accused who was the friend of the husband namely R of the complainant, had called the complainant in the Govt. Sarvodaya School No. 2, Near Mehrauli Police Station, New Delhi, where the accused has been working. The accused had proposed to facilitate a Government job in the Government School where he has been working. The accused further proposed that he will not take Rs. 2 lac from the complainant in case the complainant will bring other boys and girls for Government job as there are 40-50 vacancies in the Education Department in Delhi. 3. That the complainant had discussed the persons in her relation and having acquaintance terms with the complainant about the above proposal of the accused. 4. That after some days the complainant along with the about 10 persons who were in need for the Government job had met the accused in his Government school in Mehrauli, New Delhi and all the persons had given about Rs. 20 lac to the accused person in her presence. 5. That after one week, the accused had given an appointment letter to the persons who had given the money to the accused, but later on it came to know that these persons were employed on daily wages, when the complainant and the other persons demanded their money back, accused further states that he will get employ persons/victim in other departments. Later on, it came to know that the appointment letters which were given by the accused, were fake and forged one. 6. That the matter was brought into the knowledge of the Principal, Govt. Sarvodaya Girls School No. 2, Mehrauli, New Delhi, the principal had expelled the accused from his services from the school. When the complainant has visited the residence at House No. 3/272, Dakshinpuri, New Delhi, his parents say that the accused is not residing there. 7. That on contacting on the



mobile phone of the accused, he promised to return the money of the all the persons/victims in 10 days. Thereafter the accused started calling the complainant in his computer institute in Mehrauli where the accused had put a condition before the complainant to establish sexual relation with him and in this process, the accused had done sexual intercourse with the complainant for about 8-10 times, which amounting to rape. It is pertinent to mention here that this fact is well within the knowledge of a lady namely Vandana, who used to lock the computer institute from outside while the accused had raped the complainant. 8. That now the accused had left his office premises also and he did not pick the calls of the complainant. 9. That on 05.11.2016 the complainant has sent the complaint to the commissioner of Police, D.C.P.(South) , Delhi and the S.H.O, P.S. Mehrauli, New Delhi, but no action has been taken till date. The copy of the complaint along with the postal receipts is annexed herewith. 10. That under the above said fact and circumstances, the accused had committed the offence punishable u/s 420/406/467/468/471 IPC read with section 376 IPC and as such a prima facie case is made out against the accused and most of the offences are cognizable and the police is bound to register the FIR and investigate the same. 11. That all the offences have been committed within the jurisdiction of P.S. Mehrauli, New Delhi, which the jurisdiction of this Hon'ble Court. Hence this Hon'ble court is empowered to entertain, try and adjudicate the present complaint.”

4. In the aforesaid backdrop, I have heard learned counsel for the applicant and learned APP for the State.

5. At the very threshold, learned APP for the State would oppose the bail plea on the ground that the applicant is involved in a heinous crime which is punishable with the life imprisonment. Trial is at initial stage and charges are yet to be framed. Therefore, the applicant does not deserve any indulgence of this Court at this stage.

5.1. Furthermore, she would point out that after registration of the FIR, the applicant did not join the investigation and kept evading the same resulting



in initiation of PO proceedings against him under Section 84 of BNSS and it is only then he was eventually arrested.

6. On the other hand, learned counsel for the applicant contends that the contents of the FIR, taken at face value, do not disclose any offence that would attract the ingredients of Section 376 IPC. She further argues that the significant delay in lodging the FIR renders it liable to be quashed, particularly as the allegations appear implausible and seem to be a complete fabrication, motivated by a desire to settle a personal dispute between the applicant and the prosecutrix. It is submitted that at no point did the applicant induce the prosecutrix into any relationship; rather, whatever transpired between them occurred during a brief affair and was entirely consensual.

7. Having heard both sides, and turning first to the submissions made by the learned APP for the State, it may be noted here that the applicant's alleged non-cooperation in the investigation appears to be unintentional and stemming from a bonafide misunderstanding. At the relevant time, he was not residing at the address provided by the prosecutrix—his parental home—where the investigation notices were served. Instead, he was living and working in Ballabhgarh. The applicant, who has only studied up to the 12th grade, may not have understood the legal implications of the notice served on him. It is stated that he did not ever anticipate that the prosecutrix would accuse him under Section 376 IPC, that too after 8 years. Out of fear of losing his job and unaware of the legal consequences, he failed to appear before the investigating authorities. In the circumstances, it does not seem to be a deliberate act of evasion, particularly in light of the consensual nature of the relationship, as is apparent from the FIR itself.



8. In any case, when, upon learning of the FIR, the applicant voluntarily appeared before the Court on 16.10.2024 to join the investigation in accordance with law. However, by then, proceedings under Section 84 of the BNSS had already been initiated. Consequently, instead of receiving the benefit of surrender, he was arrested on the court premises and has been in judicial custody ever since.

9. Following his arrest, the applicant was interrogated. It is informed that the investigation has now concluded, the chargesheet has been filed, and the trial has commenced. In this situation, further custodial interrogation is unnecessary. His continued detention appears to serve only a preventive purpose, ostensibly to avoid any tampering with evidence or influencing of witnesses. However, considering that the FIR pertains to an incident alleged to have occurred nearly eight years prior to its registration, I find such apprehensions to be unfounded and lacking merit at this stage.

10. Moreover, the applicant is reported to be the sole breadwinner of his family, which includes his aged and ailing parents. His father is reportedly suffering from a liver condition, while his mother is afflicted with chronic hernia and other age-related issues. Medical documents substantiating their health conditions have been annexed to the petition. Although the learned APP for the State, based on information from the Investigating Officer, asserts that the applicant's father is engaged in some gainful activity by selling grocery items, that in itself is not sufficient to negate the applicant's plea for bail.

11. Be that as it may, leaving aside the issue of the applicant's family circumstances, I am of the view—based on the reasons already discussed above, particularly the inordinate delay in registration of the FIR—that the



applicant is entitled to the concession of bail.

12. It is also borne out that the applicant is not involved in any other criminal case, as is evident from the order passed by the learned Sessions Court, which was rendered after considering the prosecution's report.

13. As an upshot, the present bail application is allowed. Applicant shall be enlarged on bail during pendency of the trial on his furnishing personal bond with solvent surety of like amount to the satisfaction of the learned Trial Court, subject to the other usual conditions which are deemed appropriate to be imposed by the learned Trial Court in accordance with law.

14. Any observation made herein above is only for the purpose of disposing of the instant bail application and not to be construed, in any manner, as any expression on the merits of the pending case and the trial shall proceed without being influenced either way by the same.

15. Accordingly, the bail application stands disposed of.

ARUN MONGA, J

AUGUST 5, 2025
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