



2025:DHC:9662



\$~

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% *Judgment delivered on: 03.11.2025*+ **BAIL APPLN. 3189/2025**

ARJUN

.....Petitioner

Through: Mr. Nitin Prakash, Advocate.

versus

THE STATE GOVT OF NCT OF DELHIRespondent

Through: Mr. Hitesh Vali, APP for State
with SI Anjali.Ms. Sunita Arora, Advocate
(DHCLSC) for the victim.**CORAM:****HON'BLE DR. JUSTICE SWARANA KANTA SHARMA****JUDGMENT****DR. SWARANA KANTA SHARMA, J**

1. By way of the present application, the applicant seeks grant of regular bail in case arising out of FIR bearing no. 100/2025, registered at Police Station Bhalswa Dairy, Delhi, for the commission of offences punishable under Sections 137(2)/127(2)/64/87/123 of the Bharatiya Nyaya Sanhita, 2023 (hereafter 'BNS') and Section 4 of Protection of Children from Sexual Offences Act, 2012 (hereafter 'POCSO Act').

2. Briefly stated, the facts of the present case are that, *vide* DD No. 24, on 08.02.2025, an information was received at P.S. Bhalswa



2025:DHC:9662



Dairy regarding an incident of sexual assault. It is alleged that on the night of 06.02.2025 at about 9:00 PM, when the complainant (aged about 17 years) was at her residence, the applicant, who is her neighbour, had allegedly dragged her to his house, forcibly made her consume alcohol, and thereafter committed forcible sexual intercourse with her despite her resistance, following which she had lost consciousness. It is alleged that upon regaining consciousness at around 5:00 AM, she had found herself without clothes and the applicant lying beside her in the same condition. Thereafter, she had returned home and informed her sister about the incident, which was followed by her sister contacting the police on 08.02.2025. Acting upon the said information, the police had reached the spot and conducted necessary proceedings, including medical examination of the complainant at BJRM Hospital *vide* MLC no. 26738. Thereafter, the present FIR was registered.

3. During the course of investigation, the statement of the complainant was recorded under Section 183 of the BNSS. The applicant herein was arrested on 08.02.2025 and his potency test was conducted *vide* MLC No. E/35639/178058. After completion of investigation, chargesheet was filed before the concerned Court on 01.04.2025.

4. The learned counsel appearing for the applicant/accused argues that the applicant has been falsely implicated in the present case. It is argued that the FIR was lodged after an unexplained delay of two



2025:DHC:9662



days. It is contended that there are several contradictions in the complainant's statements which cast doubt on the prosecution's case. It is pointed out that while the complainant stated in her examination-in-chief that she was alone at home as her sister and brother-in-law were in Ayodhya, she later stated in her cross-examination that they had returned on 05.02.2025. It is also submitted that the complainant's MLC was recorded at 4:18 PM, and the FIR was registered at 4:51 PM, but she has herself stated that she reached the police station from the hospital around 7–8 PM. It is further argued that although there was a functional CCTV at the spot, as admitted by the complainant also in her cross-examination, no footage was recovered by the I.O. during investigation. These discrepancies, according to the learned counsel for the applicant, weaken the prosecution's case, and it is also stated that there is no medical evidence to support the case of prosecution. Therefore, it is prayed that the applicant be granted regular bail.

5. The learned APP appearing for the State, on the other hand, submits that the allegations against the applicant are serious in nature. It is argued that the statements made by the complainant are consistent – be it her statement recorded under Section 183 of the BNSS, her examination-in-chief or cross-examination – that the applicant had intoxicated her and on that pretext, had raped her. It is contended that the testimony of PW-2 also supports the case of prosecution. It is further stated that the relevant exhibits from medical



2025:DHC:9662



examinations have been sent for FSL examination, report *qua* which is awaited. Additionally, it is argued that the trial of the case is still at a nascent stage as only two witnesses out of sixteen having been examined and granting bail to the applicant at this stage can affect the course of trial. Therefore, it is prayed that the present application be rejected.

6. This Court has **heard** arguments addressed by the learned counsel for the applicant and the learned APP for the State, and has perused the material on record.

7. In the present case, as per the allegations set out in the FIR, on the night of 06.02.2025 at around 9:00 PM, the complainant, aged about 17 years, was allegedly dragged by the applicant, who is her neighbour, to his house, where he had forcibly made her consume alcohol and thereafter subjected her to sexual assault despite her resistance. Thereafter, the complainant had lost consciousness, and upon regaining consciousness in the early hours of the morning, she had found herself without clothes, with the applicant lying beside her in the same condition. *However*, the testimony of the complainant recorded before the learned Trial Court is substantially different, wherein she has stated that the applicant Arjun had come to her room and had forcibly made her consume a drink while pressing her neck. She stated that, out of fear, she drank it and thereafter lost consciousness. When she regained consciousness in the morning, she found herself without clothes and realised that Arjun had taken her to



2025:DHC:9662



his house. She further stated that, upon waking up at Arjun's house, she saw him lying beside her without clothes. Therefore, the discrepancy that emerges is that while the FIR alleges that the applicant had dragged the complainant to his house and committed the sexual assault there, her testimony before the Trial Court indicates that she had lost consciousness in her own room after being forcibly made to consume a drink and was thereafter taken by the applicant to his house.

8. It is material to note that both the complainant and the applicant reside on the same floor, i.e., the fourth floor of the property, which comprises only two rooms, one occupied by the applicant's family and the other by the complainant's family, along with a common washroom. This Court also observes that while the complainant deposed in her examination-in-chief that no one was present at her home when the applicant came there, she later admitted during cross-examination that the two minor children of her sister were present at the time. It is further relevant to note that although the complainant stated before the learned Trial Court that a functional CCTV camera was installed at the premises, the record reflects that no effort was made by the I.O. to retrieve or even verify the existence of such CCTV footage.

9. *Be that as it may*, and without venturing further into the merits of the case, this Court considers it appropriate to note that the complainant has already been examined before the learned Trial



2025:DHC:9662



Court and, therefore, the apprehension of influencing her no longer survives. The applicant has remained in judicial custody for about 09 months, and the trial is likely to take considerable time to conclude. In these circumstances, and taking into account the overall facts and circumstances of the case, this Court is inclined to extend the benefit of regular bail to the applicant, on his furnishing personal bond in the sum of Rs.20,000/- 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.

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



2025:DHC:9662



11. It is, however, clarified that nothing expressed hereinabove shall tantamount to an expression of opinion on merits of the case.
12. The judgment be uploaded on the website forthwith.

DR. SWARANA KANTA SHARMA, J

NOVEMBER 03, 2025/vc