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

+ **BAIL APPLN. 3312/2025**

SANJAY

.....Petitioner

Through: Mr. Sahil Malik and Mr. Aditya Jain,
Advocates

versus

THE STATE NCT OF DELHI AND ANRRespondents

Through: Mr. Shoaib Haider, APP for the State
with SI Isha, PS-Prem Nagar and IO
SI Manisha, CAW Cell, Subzi Mandi
Prosecutrix in person

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

% **18.11.2025**

1. The Prosecutrix is present in person and submits that she may be represented through the learned APP.
2. First Bail Application under Section 439 Cr.P.C. read with Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 has been filed on behalf of the Applicant-Sanjay for grant of Regular Bail in FIR No. 0833/2022 registered under Sections 363/366/376 IPC read with Section 6 POCSO Act at P.S. Prem Nagar.
3. It is submitted that on 23.09.2022, the mother of the Victim 'S' made a Complaint with the Police about her daughter having gone missing and consequently, FIR No. 0833/2022 under Section 363 IPC was registered. Subsequently, the child was recovered by the Police and was thereafter, sent to Sanjay Gandhi Memorial Hospital, Mangolpuri where it was found that



she was pregnant as recorded in MLC.

4. The statement of the Victim 'S' was recorded under Section 164 Cr.P.C. on 24.02.2023. The Applicant was arrested on 23.02.2023 since when he is in judicial custody. With the orders of the Child Welfare Committee dated 15.03.2023, the pregnancy of the Victim was terminated. The Chargesheet has already been filed in the Court. The charges were framed under Sections 363/366/376 IPC read with Section 6 POCSO Act on 18.04.2024. The foetus of the Victim 'S' was sent to FSL for DNA, which was matched with that of the Applicant. The Bail Application preferred before the learned ASJ has been dismissed on 09.06.2025.

5. The Bail has been sought ***on the ground*** that the age of the child has not been conclusively established. The school record was supported with the original Birth Certificate, but there is no date of birth clearly visible. There can be no presumption in regard to the age in the absence of valid and original Birth Certificate. In the school admission record, the age is mentioned as 06.12.2025, which makes her about 17 years of age at the time of alleged incident. However, there is no conclusive proof of age of the Victim 'S'.

6. It is further asserted that the school Principal has been recorded as PW-3 and she has admitted that the birth certificate is not legible. There are no supporting document to establish the age, as mentioned in the school admission record. It cannot be said that the age of the child stands established by the school record, who have not supported the Prosecution.

7. Reliance has been placed on State of Madhya Pradesh v. Munna, (2016) 1 SCC 696; State v. Shailesh Kumar, 2019 SCC OnLine Del 8318. Reference is also made to Abuzar Hossain @ Gulam Hossain v. State of



West Bengal , (2012) 9 SCR 224; Rajak Mohammad v. State of Himachal Pradesh, (2018) 9 SCC 248.

8. Furthermore, the Prosecutrix in her statement under Section 164 Cr.P.C. had not made any allegation of physical relationship with the Victim 'S'. It is further submitted that the Victim 'S' had accompanied the Petitioner out of her own will and had not tried to contact the family members for a period of 06 months while she was residing with the Application. The statement of the Victim 'S' as well as the mother of the Victim 'S' has been recorded in the Court.

9. Reliance is placed on Karan Kumar v. State & Anr., CRL. A. 1067/2024 wherein the principles for adjudication of the age have been listed.

10. It is further submitted that the Applicant is a law abiding citizen who undertakes to abide by the conditions that may be imposed upon him. He belongs to a respectable family with clean antecedents and is not a criminal. Hence, a prayer is made that he be granted Bail.

11. **Status Report** has been filed on behalf of the State wherein the details of the Chargesheet have been explained.

Submissions heard and record perused.

12. The Applicant is in judicial custody since 23.02.2023. The Victim 'S' in the Court, has deposed that she accompanied the Applicant out of her own free will. The public witnesses as well as the school teachers have been examined. There are 22 witnesses out of which, only 04 have been recorded in the past almost three years. The trial is likely to take long. Public witnesses stand recorded.



13. Considering the totality of circumstances, the Applicant is granted Regular Bail, on the following terms and conditions:

- a) The Applicant shall furnish a personal bond of Rs.35,000/- and one Surety of the like amount, subject to the satisfaction of the learned Trial Court.
- b) The Applicant shall appear before the Court as and when the matter is taken up for hearing;
- c) The Applicant shall provide his mobile number/changed mobile number to the IO concerned which shall be kept in working condition at all times;
- d) The Applicant shall not indulge in any criminal activity and shall not communicate or intimidate the witnesses.
- e) In case the Applicant changes his residential address, the same shall be intimated to learned Trial Court and to the concerned I.O.

14. Copy of this Order be communicated to the concerned Jail Superintendent, as well as, to the learned Trial Court for information and compliance.

15. The Bail Application is accordingly disposed of.

NEENA BANSAL KRISHNA, J

NOVEMBER 18, 2025

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