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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 3357/2025**

MAQBOOL AHAMD

.....Petitioner

Through: Mr.Deepanshu Baisla, Mr.Gaurav
Tyagi, Mr.Jatin Nagar and
Mr.Vaibhav Tyagi, Advocates

versus

STATE GOVT. OF NCT OF DELHI

.....Respondent

Through: Mr.Sanjeev Sabharwal, APP for the
State alongwith W/SI Nikheni Adane,
P.S.-Chandni Mahal

CORAM:

HON'BLE MR. JUSTICE ARUN MONGA

ORDER

11.09.2025

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1. The applicant herein is before this Court seeking regular bail, having remained under incarceration since 15.08.2020, i.e. approximately 5 years, in a criminal case arising out of FIR No. 0272/2020 dated 15.08.2020 for the alleged offences punishable under Sections 376/376DB/376AB/323/342 of the IPC and under Section 6 of the POCSO Act, registered at Police Station Chandni Mahal.

2. Briefly speaking, per FIR, the case set up by the prosecution is that the complainant's husband works as a rickshaw puller, while the complainant works as a road water supplier, and they have three children. On 21.07.2020, complainant's elder sister (Shama Parveen) gave birth to a daughter through an operation, and since then the complainant has been visiting her daily to assist her, returning home at night.

2.1 On 14.08.2020, the complainant was cooking food at Shama's house



when Shama's daughter Tamanna, aged 4 years, started crying. Yasmin gave money to Aliza (Shama's second daughter) aged 10 years, to buy food items, but Tamanna herself took the money and ran out. When she did not return, Aliza went out to look for her. After some time, Yasmin saw Aliza and Tamanna had been bathed, Tamanna's clothes were washed and kept on a nearby dumper, and both children sat quietly in a corner. Aliza appeared frightened and, on being asked, disclosed that while searching for Tamanna she saw the shutter of a nearby tea stall half open. Hearing Tamanna's screams, she peeped inside and saw Tamanna lying on the floor with three boys near her; one holding her hands, another covering her mouth, and the third standing in front. On seeing her, two boys hid while the third threatened her to keep quiet.

2.2 Thereafter, Aliza took Tamanna away and noticed blood on her clothes. Tamanna later complained of wanting to urinate, and blood came out from her private parts. Frightened, Aliza bathed Tamanna, washed her clothes, and sat with her silently before informing her mother and aunt. Thereafter, Yasmin and relatives brought Tamanna to the police station, where Yasmin's statement was recorded, and the victim's clothes were produced and seized.

3. In the aforesaid backdrop, I have heard the rival contentions and perused the case file.

4. Learned counsel for the applicant would *inter alia* argue on the lines of grounds pleaded in the petition as below:-

4.1 That the story of the prosecution as narrated by the IO through the charge sheet is absolutely false, frivolous, and wholly concocted. He would contend that the petitioner is the sole bread-earner of the family and has



already spent 5 long years behind bars, while the matter is still at the stage of prosecution evidence and only 8 out of 23 witnesses have been examined-in-chief, cross-examined, and discharged.

4.2 That there is no FSL report on record proving the involvement of the petitioner and the co-accused (CCLs) are already on bail from the Juvenile Justice Board. He would further contend that there is no evidence of penetrative sexual assault, and neither the statement under Section 164 Cr.P.C. nor the evidence of the victim has been recorded. He would argue that the petitioner was granted interim bail *vide* order dated 02.08.2024 by the learned Trial Court during which he did not contact any of the public witnesses and surrendered before the Jail authorities in a timely manner.

4.3 That the petitioner has no previous involvement in any criminal case and has been falsely implicated in the present case. He would also contend that the law regarding trial is clear that till the time the Courts find an accused guilty or grant conviction, he shall be presumed innocent. He would place reliance on the Supreme Court judgment in ***Sanjay Chandra v. Central Bureau of Investigation (2012) 1 SCC 40*** has held that the object of bail is to secure the appearance of the accused person at his trial and is not punitive or preventive. He would urge that the petitioner has clean antecedents and deep roots in society, and there is no chance of his absconding or tampering with evidence.

4.4 That the trial of the case is likely to take a long time, keeping the petitioner in judicial custody would serve no fruitful purpose. He would urge applicant's family would be left destitute, he being the sole breadwinner. He would argue that the cardinal principle of criminal law provides that an accused is presumed to be innocent until proven guilty, and since the case is



still at the stage of prosecution evidence, keeping the petitioner behind bars for such a long period would cause grave injustice to him and his family. The Apex Court and this Court have repeatedly held that “bail is the rule and jail is the exception,” and the exception applies only in cases where there are cogent evidences and reasonable grounds against the accused.

4.5 That the learned Sessions Judge, while deciding the previous bail application of the petitioner *vide* order dated 11.07.2025, failed to consider these reasonable grounds and passed a non-speaking order merely stating that the offence being grave in nature is not fit for bail. He would also contend that while the gravity of offence cannot be ignored, it cannot by itself be a ground for continued incarceration, especially when the presumption of innocence operates in the petitioner’s favour until proven guilty. He would also urge that after completion of investigation, continued detention would amount to deprivation of the Fundamental Right to “Life and Personal Liberty” under Article 21 of the Constitution of India.

4.6 That the applicant is ready and willing to abide by any condition imposed by this Court while granting him bail. That the applicant undertakes that he will not misuse the liberty of bail, will not converse with or influence any witness, and will not flee from the process of the court and join the investigation whenever required by the IO, will regularly appear before the Trial Court until the conclusion of trial, and will fully support expeditious disposal of the case.

5. Opposing the above submissions, the learned APP for the state argues that the instant bail application is *sans* merit and the applicant is not entitled to any relief at this stage as the offence committed by the applicant is heinous in nature, as there remains a genuine risk of him absconding,



influencing or intimidating witnesses, and tampering with crucial evidence. He would further contend that the victim and the witness are both minors, and there is a grave possibility that the accused may exercise influence or cause intimidation and there is also a strong apprehension that the petitioner/accused may abscond and jump bail if granted the same.

6. On a query put to learned APP for the State, he does not dispute that the testimony of the prosecutrix stands concluded and thus, I am of the view that there is no possibility of the applicant either influencing her or intimidating in any manner since her examination as well as cross-examination has already been carried out.

7. Having heard, I am of the view that there may be some substance in some of the arguments addressed on merits by the learned counsel for the applicant but the same are a matter of trial. However, at this stage, in light thereof, it is otherwise a fit case for bail. Let us see how.

8. The applicant has already remained in custody for more than 5 years. The trial is moving at a snail's pace. Further continued incarceration would serve no useful purpose, especially when the trial is not likely to conclude in the near future as it violates the fundamental rule i.e. bail is the rule and jail an exception.

9. As regards the apprehension of tampering with evidence or influencing or intimidating the witnesses, there is nothing on record to support such apprehension, which appears unfounded, coupled with the fact that the applicant was granted interim bail *vide* order dated 02.08.2024 by the learned Trial Court and surrendered before the Jail authorities on time.

10. The applicant has been in custody since 15.08.2020, has cooperated throughout the investigation, and there is nothing to suggest that he would



abscond, interfere with evidence, or influence witnesses. One of the primary objects of bail is to secure the presence of the accused during trial. The applicant has no criminal antecedents, poses no flight risk, and continued detention may amount to punishment before conviction, at this stage.

11. The applicant is stated to be the sole breadwinner of his family and he is responsible to tend to them as they are dependent on him for survival. In his absence, the family is moving towards literal starvation and penury.

12. As an upshot and taking a wholesome view of the matter, I am of the view that it is a case of bail at this stage.

13. Thus, the applicant is directed to be released on bail on his furnishing personal bond with solvent surety of like amount to the satisfaction of the Trial Court/Duty Judge concerned as the case may be, subject to the other usual conditions to be imposed by the learned Trial Court/Duty Court.

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

SEPTEMBER 11, 2025/dy