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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
+ **BAIL APPLN. 3623/2025 & CRL.M.A. 28405/2025**  
**DEVENDER** .....Petitioner

Through: Mr. Rajeev Ranjan Pandey and Mr.  
Manmohan, Advocates.

versus

**STATE OF NCT OF DELHI** .....Respondent  
Through: Mr. Hemant Mehla, APP.  
SI Anil Kumar, P.S. Sultanpuri.

**CORAM:**  
**HON'BLE MR. JUSTICE SANJEEV NARULA**

**ORDER**  
**18.11.2025**

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1. This application under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023<sup>1</sup> (formerly Section 439 of the Code of Criminal Procedure, 1973<sup>2</sup>) seeks regular bail in proceedings arising from FIR No. 703/2023 registered under Section 363 of the Indian Penal Code, 1860<sup>3</sup> at P.S. Sultanpuri. Subsequently, a chargesheet was filed and the Applicant has been charged with offences under Sections 328/363/376D of IPC and Section 6 of the Protection of Children from Sexual Offences Act, 2012.<sup>4</sup>

2. The case of the prosecution, in brief, is as follows:

2.1. On 3<sup>rd</sup> July 2023, the complainant (father of the victim) lodged a missing-person report. The victim, aged 17, was recovered the same day, medically examined, and forensic exhibits were collected. In her statement

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<sup>1</sup> "BNSS"

<sup>2</sup> "Cr.P.C."

<sup>3</sup> "IPC"



under Section 164 Cr.P.C., the victim stated that two boys approached her, gave her water laced with a substance, and took her to a room in Budh Vihar where she was sexually assaulted while semi-conscious.

2.2. The victim later identified the place of occurrence, and investigation revealed the room was let to Moshim Khan, who handed the key to accused Devender @ Debu (Applicant). The Applicant admitted being with co-accused Ashu @ Aash Mohd. Saifi that night.

2.3. After identification by the victim, both accused were apprehended, medically examined, and their samples sent for DNA analysis. The victim's age was confirmed as 17 years. CDR analysis confirmed telephonic contact between accused Devender and Moshim Khan around the relevant time. DNA analysis of exhibits revealed mixed biological stains from the victim on the jeans and blood gauze of the Applicant. Based on the victim's statement, her identification of the accused, and the forensic evidence, a chargesheet has been filed against both accused under Sections 363/328/376D IPC and Section 6 of the POCSO Act.

3. Counsel for the Applicant submits that he has been falsely implicated and that the prosecution case suffers from material inconsistencies. The identity of the Applicant was improperly disclosed to the victim in violation of statutory safeguards, and that even the victim has admitted in cross-examination that she identified the Applicant only after being shown photographs by the police. The allegation of administering intoxicating water is unsupported by any medical or forensic evidence, as no blood or toxicology samples were sent for examination.

4. It is urged that the victim's statements regarding the place of

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<sup>4</sup> "POCSO Act"



occurrence are contradictory, and the spot identified during trial does not match the prosecution's site plan. The FSL report is also challenged on the ground of alleged procedural lapses, missing samples, and chain-of-custody defects. The medical evidence does not record any injuries indicative of sexual assault, and that no CCTV footage corroborates the victim's movement or the prosecution's narrative. It is further submitted that the Applicant has been in custody for a substantial period and has deep roots in the community, eliminating any flight risk. There no likelihood of his interfering with the trial, especially since the material prosecution witnesses have already been examined.

5. *Per Contra*, Mr. Hemant Mehla, APP for the State, opposes the bail application. It is submitted that the allegations against the Applicant are grave, involving the sexual assault of a minor. The victim identified the Applicant before the Trial Court, and her testimony is supported by the CDRs showing his contact with Mosim, who had the room keys, as well as the FSL report detecting the victim's biological material on the Applicant's clothes. It is further pointed out that only 10 out of 22 prosecution witnesses have been examined so far, and releasing the Applicant at this stage poses a real risk of his influencing or intimidating the material witnesses. The possibility of the Applicant fleeing from justice cannot be ruled out.

6. The Court has considered the submissions and perused the material on record. While it is true that the chargesheet has been filed and the investigation stands concluded, the mere completion of investigation does not, *ipso facto*, entitle the Applicant to bail, particularly in light of the gravity and heinous nature of the alleged offence.

7. The allegations in the present case concern the sexual assault of a



minor, an offence of grave nature attracting the rigours of Section 6 of the POCSO Act. At the bail stage, this Court is required only to assess whether the material collected during investigation, taken at face value, discloses a *prima facie* case and whether the Applicant's release would prejudice the administration of justice.

8. The victim's account in her statements under Sections 161 and 164 Cr.P.C., regarding being taken to Budh Vihar, rendered semi-conscious and subjected to sexual assault, has been broadly consistent. She has also identified the Applicant in Court during her deposition. The victim's minority is established, and the allegations, if taken at face value, squarely attract the provisions invoked.

9. The forensic record, at this stage, cannot be discarded in the manner urged by the defence. The FSL report records the presence of mixed biological material of the victim on the Applicant's clothes. The evidentiary weight to be accorded to the alleged discrepancies in handling, sealing or examination of samples is a matter for trial. At this stage, the presence of the victim's DNA on the Applicant's seized articles provides *prima facie* corroboration to the prosecution version.

10. The contentions relating to inconsistencies in the description of the spot, absence of CCTV footage, or alleged lapses in the medical examination similarly pertain to the probative value of evidence, which cannot be adjudicated in detail at the stage of bail. These are matters for evaluation at trial and do not, at this stage, undermine the allegations supported by the victim's testimony and the forensic indicators.

11. Further, only 10 of 22 prosecution witnesses have been examined so far. At this stage, there is a significant risk that the Applicant may attempt



to tamper with evidence or influence remaining witnesses. This increases the danger of obstructing justice and therefore, weighs against the grant of bail.

12. Considering the overall circumstances, including the consistency of the victim's account, her identification of the Applicant in Court, the forensic material on record, the gravity of the allegations and the real possibility of witness tampering, this Court is not persuaded to grant bail at this stage.

13. Accordingly, the application stands dismissed.

14. It is clarified that the observations made herein are limited to adjudicating the present bail application and shall not be treated as an expression on the merits of the case.

**SANJEEV NARULA, J**

**NOVEMBER 18, 2025**

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