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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 3671/2025**

RAJESH

.....Petitioner

Through: Dr. Anand Duggal, Ms. Inderjot Kaur
and Ms. Shalini, Advocates.

versus

STATE (GOVT. OF NCT OF DELHI)

.....Respondent

Through: Mr. Hitesh Vali, APP for State.
SI Pooja Saraswat, P.S. Tigri.
Mr. Vivek Jaiswal and Ms. Shakshi
Verma, Advocates for victim.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

% **04.12.2025**

1. This application under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023¹ (formerly Section 439 of the Code of Criminal Procedure, 1973²) seeks regular bail in proceedings arising from FIR No. 277/2025 registered under Section 64(2)(f)/74/351(2) of the Bharatiya Nyaya Sanhita, 2023³ and Sections 6/10 of the Protection of Children from Sexual Offence Act, 2012⁴ at P.S. Tigri.

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

2.1. On 11th May 2025, the mother of the victim made a PCR call, stating that her husband had assaulted her and taken away her phone. The call was marked to ASI Jitendra, who later recorded that the complainant intended to furnish a written complaint regarding the domestic quarrel. On the following day, she submitted a written complaint at PS Tigri, wherein she alleged

¹ "BNSS"

² "CrPC"

³ "BNS"

⁴ "POCSO Act"



inappropriate conduct by the Applicant (victim's father) towards their minor daughter, aged about 14 years. In view of these allegations, the complainant was asked to join the enquiry along with the child

2.2. On 3rd June 2025, the mother appeared along with the victim, whose statement was recorded. The victim alleged that the Applicant had subjected her to inappropriate touching on earlier occasions and on 28th March, 2025, sexually assaulted her by rubbing her genital area. She stated that she had not disclosed the incident earlier as the Applicant had threatened her with dire consequences and that she informed her mother only after the quarrel between her parents on 10th May, 2025. On the basis of this statement, the present FIR was registered.

2.3. The victim was thereafter medically examined at AIIMS. The MLC notes that there was no history of sexual intercourse and that the victim declined internal examination. Her statement under Section 183 BNSS was recorded, wherein she reiterated the allegations made earlier. The Applicant was interrogated, arrested and remanded to judicial custody.

2.4. The child was also produced before the Child Welfare Committee, Lajpat Nagar. It emerged from the record that she had previously visited the CWC on 28th May, 2025, where she disclosed allegations of "bad touch" against the Applicant, but did not refer to any specific act of sexual assault of the nature later alleged.

2.5. CCTV footage collected from the vicinity did not yield any material supporting the alleged incidents. Neighbours did not report any incident of sexual assault or unusual activity, though the grandmother and younger sister are stated to have noted prior concerns about the Applicant's behaviour. The investigation also notes that the Applicant has previously



faced criminal cases, in which he has been acquitted, except for one FIR of 1997 which remains pending trial. On completion of investigation, a chargesheet under Sections 64(2)(f)/74/351(1) BNS and Sections 8/10 POCSO Act was filed.

3. Dr. Anand Duggal, counsel for the Applicant, submits that the Applicant has been falsely implicated and that the present case is an outcome of matrimonial discord and disputes within the family. It is contended that the alleged incidents of February, 28th March and 10th May, 2025 were reported belatedly on 3rd June, 2025. The earlier PCR call dated 11th May, 2025 refers only to an altercation and snatching of a phone, without any reference to sexual assault. Attention is also drawn to what are said to be inconsistencies in the dates recorded at different stages. It is argued that the victim's first disclosure before the CWC on 28th May, 2025 mentioned only "bad touch" and that the allegation of aggravated sexual assault is a later embellishment. Counsel submits that there is no scientific or independent corroboration: the MLC records no history of intercourse and no internal examination was carried out at the child's request; neither CCTV footage nor neighbours' statements support the prosecution version. The Applicant has been in custody since 4th June, 2025 and, with the investigation complete and chargesheet filed, it is urged that continued detention would serve no further investigative purpose.

4. Conversely, Mr. Hitesh Vali, APP for the State, opposes the application and submits that the allegations against the Applicant are grave and relate to sexual abuse by a father upon his minor daughter within the confines of the home. It is submitted that the victim has consistently named the Applicant as the perpetrator, including in her statement under Section



183 BNSS, and that such statements of a child victim carry significant evidentiary weight. The MLC, while noting no history of intercourse, does not exclude the possibility of the offences alleged, particularly having regard to the nature of acts described. It is further contended that the child's initial silence and the gradual unfolding of her narrative are not unusual in cases of intra-familial abuse, especially when threats are alleged. Reference is made to family members having expressed concerns about the Applicant's prior conduct. The State also asserts that the Applicant has other criminal involvements and, if released on bail, may attempt to influence or intimidate the victim and other witnesses or disturb the child's sense of security.

5. The Court has carefully considered the rival submissions and perused the material placed on record. At the stage of consideration of bail, the Court is not expected to undertake a detailed examination of the evidence or to return findings on the truthfulness of the allegations. The exercise is confined to assessing whether there exists a *prima facie* case, the nature and gravity of the accusations, the likelihood of the accused fleeing justice or tampering with evidence, the stage of investigation, and the overall balance between the right to personal liberty and the interests of a fair trial, particularly keeping in view the sensitivities involved in cases under the POCSO Act.

6. A limited *prima facie* scrutiny indicates that the prosecution case is founded substantially on the statements of the victim and her mother. At this stage, it is of some relevance that during her earlier interaction with the CWC on 28th May, 2025, the victim made allegations of "bad touch" but did not speak of the specific act of sexual assault that is later alleged to have occurred on 28th March, 2025. It is also noted that although, as per the



prosecution, the victim disclosed the alleged incident to her mother on 10th May 2025, no report of sexual assault was made to the police at that time. The PCR call made by the mother on 11th May 2025 referred only to a domestic quarrel and snatching of a phone, and even when contacted by the responding officer, no allegation of sexual misconduct was disclosed. The subsequent written complaint, and later the victim's detailed allegations recorded on 3rd June 2025, therefore reflect a progression in the nature and specificity of the accusations. The reasons for, and implications of, this sequence of disclosures are matters that must be examined with due sensitivity by the Trial Court at the appropriate stage. At the bail stage, however, these circumstances form part of the overall record that the Court is required to take into account while assessing the necessity of continued incarceration.

7. The medical material also does not offer independent support: the MLC records no history of sexual intercourse, and no internal examination could be conducted as the child declined the procedure. The absence of such findings is not conclusive in either direction and does not, by itself, undermine the victim's account, particularly in offences of this nature. It only means that the medical evidence does not add an additional layer of support to the prosecution case at this stage.

8. It is also a matter of record that the Applicant has been in custody since 4th June, 2025. Investigation stands completed and the chargesheet has been filed. The trial has not yet commenced and, having regard to the nature of criminal docket, the conclusion of trial is likely to take some time. The State has not pointed to any specific act of non-cooperation during investigation after the Applicant's arrest, nor to any incident of threat or



inducement during the period he has remained in custody.

9. The concerns of the prosecution in POCSO matters regarding the protection of the child victim and the need to insulate her from any pressure are weighty and cannot be lightly brushed aside. However, those concerns can, in appropriate cases, be addressed by imposing rigorous and carefully tailored conditions while granting bail, including restrictions on contact and proximity, rather than by insisting on continued custody as the only option.

10. The Court notes that the allegations against the Applicant are undoubtedly serious. However, the material presently on record shows that the case rests primarily on the oral testimony of the child and mother, which will undergo full scrutiny at trial. No independent corroboration has emerged, and there is a noticeable variation between the child's initial disclosure before the CWC and her subsequent statements. It is also undisputed that there is matrimonial discord and pending litigation between the Applicant and the child's mother. While such discord does not detract from the gravity of the allegations, it forms part of the surrounding circumstances that the Court may consider at the bail stage.

11. As regards the Applicant's past antecedents, the record reflects that he has been acquitted in earlier matters or that the disputes have since been settled; the only pending case dates back to 1997 and pertains to an offence under the IPC relating to robbery. As held by the Supreme Court in ***Prabhakar Tewari v. State of U.P.***,⁵ the mere existence of prior cases, without more, cannot by itself operate as a ground to deny bail.

12. It is equally well settled that the object of bail is to secure the presence of the accused at trial and that pre-trial detention is not meant to



operate as a form of punishment.⁶ In view of the above, the Court is of the view that continued custody of the Applicant is not warranted, subject to the imposition of strict conditions to safeguard the child and the integrity of the proceedings.

13. The Applicant is, therefore, directed to be released on bail on furnishing a personal bond for a sum of INR 25,000/- with one surety of the like amount, subject to the satisfaction of the Trial Court/Duty MM, on the following conditions:

- a. The Applicant shall cooperate in any further investigation as and when directed by the concerned IO;
- b. The Applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case or tamper with the evidence of the case, in any manner whatsoever;
- c. The Applicant shall not contact the victim or any of her family members;
- d. The Applicant shall under no circumstance leave the country without the permission of the Trial Court;
- e. The Applicant shall appear before the Trial Court as and when directed;
- f. The Applicant shall provide the address where he would be residing after his release and shall not change the address without informing the concerned IO/ SHO.
- g. The Applicant shall not reside within 3 km radius of the residence of the victim and shall also furnish proof of his residence to the concerned IO.

⁵ (2020) 11 SCC 648.

⁶ *Sanjay Chandra v. CBI*, (2012) 1 SCC 40; *Satender Kumar Antil v. Central Bureau of Investigation*,



The Applicant shall also not move in the vicinity of the victim in any manner.

h. The Applicant shall, upon his release, give his mobile number to the concerned IO/SHO and shall keep his mobile phone switched on at all times.

i. The Applicant shall report to the concerned PS on first Friday of every month;

14. In the event of there being any FIR/DD entry / complaint lodged against the Applicant, it would be open to the State to seek redressal by filing an application seeking cancellation of bail.

15. It is clarified that any observations made in the present order are for the purpose of deciding the present bail application and should not influence the outcome of the trial and also not be taken as an expression of opinion on the merits of the case.

16. The bail application is allowed in the afore-mentioned terms.

SANJEEV NARULA, J

DECEMBER 4, 2025

as

(2022) 10 SCC 51.