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

+ **BAIL APPLN. 3755/2025**

MD WARIS

.....Petitioner

Through: Mr.Suraj Prakash Sharma, Advocate

versus

THE STATE (NCT OF DELHI)

.....Respondent

Through: Mr.Sanjeev Sabharwal, APP for the
State alongwith SI Sandeep Rawat,
P.S.-Govind Puri

CORAM:

HON'BLE MR. JUSTICE ARUN MONGA

ORDER

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26.09.2025

CRL.M.A. 29295/2025 (Exemption)

Exemption allowed, subject to all just exceptions.

The application stands disposed of.

BAIL APPLN. 3755/2025

1. Having remained under incarceration since 07.10.2022 (more than 2 years 11 months) in a criminal case arising out of FIR No.719/2022 dated 07.10.2022 *inter alia* for the alleged offence punishable under Sections 377 of IPC and 6 of POCSO, registered at Police Station Govind Puri, the applicant seeks bail.

2. Briefly speaking, the case set up by the prosecution/complainant as per FIR is that:-

2.1 On 06.10.2022, the complainant, i.e. mother of the victim (her 10 year old son), received a call from her neighbour that Md Waris (Applicant



herein) had done something bad-amounting to sexual assault on her son.

2.2 Immediately upon receiving this information, the complainant returned home and questioned her 10 year old son (victim), who told her that for the last 2-4 days, Waris Uncle i.e. Md Waris (Applicant herein) had been calling him to his room daily, under various pretexts and sexually assaulting him, causing him significant pain. The victim further stated that whenever he tried to scream, the applicant would threaten him and offer him ₹50 to remain silent.

2.3 The victim further stated that on the day of the incident, the applicant again called him under the pretext of giving him food, and repeated the inappropriate act. Realising the seriousness of the incident, the mother of the victim immediately contacted the police. The police promptly arrived at the scene and recorded the statements of the complainant and the child. On the basis of the statement and other material evidence, the aforesaid FIR was registered, and the applicant was arrested on 07.10.2022.

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 the following grounds:-

4.1 That the learned counsel now submits that the mother of the victim i.e. the complainant, as well as the victim, have not supported the prosecution's version and have turned hostile, thereby significantly weakening the prosecution's case. In view of this, the very foundation of the prosecution's case stands substantially eroded, warranting the grant of bail to the applicant.

4.2 That the applicant has clean antecedents and has never been



convicted by any court of law. Learned counsel further submits that the complainant has maliciously lodged a false case against the applicant and that all allegations levelled are wholly false, frivolous, and baseless. It is further contended that the police officials, acting on manipulated statements, have wrongfully implicated the applicant in a fabricated case, without any justifiable basis.

4.3 That the applicant has been in judicial custody since 07.10.2022 for more than 2 years and 11 months, while the trial is yet to conclude. Furthermore, charges have been framed against the applicant, and the material witnesses have been examined. It is further submitted that only formal witnesses remain to be examined. Thus, such prolonged incarceration amounts to pre-trial punishment and violates the fundamental right under Article 21 of the Constitution of India.

4.4 That the applicant has already spent a considerable period in custody and is ready to abide by all the terms and conditions of bail. It is further submitted that the applicant moved an application for grant of bail before the learned ASJ, Saket Courts, but the same was dismissed *vide* its order dated 05.06.2025.

4.5 That the applicant belongs to a poor family background, and continued incarceration would jeopardize the applicant's entire future. Such prolonged judicial custody would also unjustly tarnish the reputation of the family, despite there being no commission of any offence on the part of the applicant.

4.6 That the applicant is of an impressionable age, and continued judicial custody in the company of hardened criminals is likely to have a detrimental impact on his future prospects and overall rehabilitation.



4.7 That the applicant undertakes to appear in this Hon'ble Court on each and every date of hearing and also undertakes that he will abide by all the conditions imposed upon him by this Hon'ble Court. That the petitioner is a permanent resident of Delhi and as such there is no chance of absconding and undertakes not to tamper with prosecution evidence. That the petitioner is ready to furnish the sound surety to the entire satisfaction of this Hon'ble Court.

5. Opposing the submissions, the learned APP points out that the nature and gravity of the present allegations are serious, heinous and sensitive in nature. It is submitted that there exists a real apprehension that, if released on bail, the applicant may abscond, threaten or intimidate the witnesses, tamper with the evidence or otherwise obstruct the course of justice. It is further submitted that the earlier bail application of the applicant was dismissed by the learned ASJ, Saket Courts *vide* order dated 05.06.2025. It is therefore urged that the continued custody of the applicant is necessary to ensure a fair trial and to prevent any misuse of liberty, and the instant petition deserves to be dismissed, being devoid of merit.

6. Having heard, *prima facie*, I am of the view that there may be some substance in certain 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, and other reasons stated here after, it appears to be a case for bail.

7. The testimonies of both the victim and her mother, who is the complainant-informer in the FIR, have been placed on record as Annexures E and F, respectively. On being queried, the learned APP for the State did not dispute their contents.



8. A perusal of these testimonies shows that neither the victim nor her mother has supported the prosecution's version. Both have resiled from their earlier statements and turned hostile. In these circumstances, the prosecution's ability to secure a conviction stands significantly weakened.

9. Be that as it may, these observations are being made solely for the purpose of this bail application, and it is for the Trial Court to adjudicate on them at the appropriate stage. Suffice to note, that in view thereof, I am of the opinion that case for bail is made out.

10. Moreover, the applicant has already remained in custody since 07.10.2022 for more than Investigation is over *qua* him as the charge sheet has been filed. This prolonged pre-trial detention, coupled with the slow progress of proceedings at snail's pace, are contributory factors for bail, and further continued incarceration would cause undue hardship to the applicant's family and 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*.

11. As regards the apprehension of tampering with evidence, there is nothing on record to suggest that he would interfere with evidence or influence witnesses. There is also no likelihood of the applicant absconding, given that he is a well-settled individual, has deep roots in society, and hence not a flight risk.

12. Considering that the primary purpose of bail is to secure the presence of the accused during trial, coupled with the fact that the applicant has clean antecedents and poses no risk of absconding, his continued detention at this stage would serve no purpose other than to punish him prior to conviction.

13. As an upshot and taking a wholesome view of the matter, particularly



the undertaking given by learned counsel for the applicant and apart from what has been recorded hereinabove, I am of the view that it is a case of bail at this stage.

14. 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.

15. 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.

16. Accordingly, the bail application stands disposed of.

ARUN MONGA, J

SEPTEMBER 26, 2025

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