



2025:DHC:11380



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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision: December 15, 2025

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BAIL APPLN. 3835/2025, CRL.M.A. 29915/2025 & CRL.M.A. 29916/2025**SURESH****.....Applicant****Through: Mr. Sanjay Soni & Mr. A.
Raja R.S., Advs.****versus****STATE OF NCT OF DELHI & ANR.Respondents****Through: Mr. Sunil Kumar Gautam,
APP for the State.
SI Suman, PS Sarita Vihar.****CORAM:****HON'BLE MR. JUSTICE AMIT MAHAJAN****AMIT MAHAJAN, J. (Oral)**

1. The present bail application is filed by the applicant seeking regular bail in FIR No. 251/2024 dated 04.07.2024, registered at Police Station Sarita Vihar, for offences under Section 6 of the Protection of Children from Sexual Offences Act, 2012 ('POCSO') and Section 376 of the Indian Penal Code, 1860 ('IPC')

2. Succinctly stated, FIR in the present case was registered pursuant to a complaint made by the minor victim. It is alleged that the applicant used to sell vegetables two streets away from the victim's house and she would sometimes buy vegetables from him. It is alleged that one day when the victim went to the applicant's cart to buy vegetables, the applicant told the victim to not pay for the vegetables and instead go out with him. He told the victim that he would pay her ₹500/- and make her have fun. It

Signature Not Verified is alleged that pursuant to the aforesaid offer, the victim left the

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spot in a hurry. It is alleged that a few days later when the victim went to the applicant's cart again to buy vegetables, the applicant told her that he knows where she lives and he would come to her house with food and drinks. It is alleged that the applicant told the victim to not inform anyone about the same or she would only be scolded and the victim in fear of the same did not inform anyone about what the applicant said to her.

3. It is alleged that thereafter, one day, the applicant came to the victim's house when she was alone, gave her ₹500/- and raped her. It is alleged that the applicant told the victim to not inform anyone about the incident or she would be scolded herself. It is alleged that subsequently, the applicant once again came to the victim's house and raped her. It is alleged that thereafter, the victim's health started deteriorating and when her mother took her to the hospital it was found that she is pregnant. The victim was 15 years old at the time of alleged incident.

4. The learned counsel for the applicant submits that the applicant is innocent and has been falsely implicated in the present case.

5. He submits that the victim refused medical examination and there is no scientific or medical evidence implicating the applicant. He submits that the DNA profile of the retained product of conception could not be generated due to degradation/inhibition of the sample.

6. He submits that the entire case of the prosecution substantially rests upon the statement of the victim, which is contradictory in nature. He submits that as per the statement of



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the victim the alleged offence took place in June 2024, and the duration between the alleged offence and the MLC dated 05.08.2024 is only four weeks while the MLC indicates that the victim was more than eight weeks pregnant. He submits that the same indicates that the victim was impregnated at an earlier date by some other person.

7. He submits that the parents of the victim had taken various small loans from the applicant and haven't paid the same back to the applicant. He submits that the parents of the victim threatened the applicant to waive of the loans before the present complaint was filed. He submits that the possibility of the victim being tutored by her parents cannot be ruled out.

8. *Per Contra*, the learned Additional Public Prosecutor for the State vehemently opposes the grant of any relief to the applicant. He submits that the allegations against the applicant are grave in nature. He submits that the heinous acts of the applicant have led to the minor victim getting pregnant.

9. He submits that the age of the victim has been verified from her school records and she was 15 years old at the time of commission of the offence.

10. He submits that the testimony of the victim and her mother have been recorded before the learned Trial Court wherein they have supported the case of the prosecution.

11. I have heard the arguments and perused the record.

12. It is settled law that the Court, while considering the application for grant of bail, has to keep certain factors in mind, such as: (i) the nature or gravity of the offense; (ii) the character



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of the evidence and circumstances unique to the accused; (iii) the likelihood of the accused evading justice; (iv) the potential impact of the release on prosecution witnesses and its societal repercussions; and (v) the probability of the accused engaging in tampering.

13. It has been held in a catena of judgments that while considering an application of the accused seeking bail, the Court would not be justified in going into evidence on record at such depth so as to ascertain probability of conviction of the accused as the same is a matter of trial.

14. The grant of bail should not be arbitrary or whimsical. Being conscious of the fact that individual liberty holds immense significance, it is incumbent upon the Courts to examine and evaluate, albeit briefly, factors such as the *prima facie* case, the nature and severity of the crime and the accused's likelihood to tamper with evidence, among other considerations as noted above.

15. In the present case, the allegation against the applicant is that he raped the minor victim on two occasions when she was alone at home which led to her getting pregnant.

16. The learned counsel for the applicant contends that there are certain discrepancies in the statement of the victim. He contends that as per the case of the prosecution the incident took place four weeks before the MLC, however, the victim was more than eight weeks pregnant at the time of the MLC. It is further pointed out that the DNA profile of the retained product of conception could not be generated due to degradation/inhibition



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of the sample. It is the contention of the learned counsel for the applicant that the benefit of such discrepancies should be afforded to the applicant.

17. It is pertinent to note that the Hon'ble Apex Court in several judgements has cautioned against delving into the question of credibility/reliability of the witnesses at the stage of grant of bail. In the present case, the allegations against the applicant *prima facie* are serious in nature.

18. From a perusal of the FIR, the statement of the prosecutrix under Section 164 of the CrPC and her evidence, it is apparent that the victim has categorically alleged that the applicant had raped her on two occasions before she became pregnant. Further the mother of the minor victim has also supported the case of the prosecution. Minor discrepancies in the statement of the prosecutrix in relation to the time period during which the alleged incident was committed is a subject matter of trial and would be considered at the stage of final arguments. The same, in the opinion of this Court, cannot be a ground to enlarge the applicant on bail at this stage.

19. Moreover, the FIR in the present case was undisputedly registered pursuant to the minor victim becoming pregnant. Merely because the DNA profile of the retained product of conception could not be generated due to degradation of the sample, benefit of the same cannot be afforded to the applicant at this stage considering the serious nature of allegations against the applicant, particularly the fact that a minor victim has become pregnant.

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20. It is also the contention of the learned counsel for the applicant that the parents of the victim had taken certain loans from the applicant and had failed to return the same. It is contended that the parents of the victim had threatened the applicant to waive of the loans before filing the present complaint. It is contended that the possibility of the victim being tutored by her parents cannot be ruled out. The veracity of the aforesaid arguments cannot be determined at this stage and would be considered at the stage of final arguments.

21. Accordingly, taking into account the submissions made by the learned counsel for the parties, and material available on record, this Court is of considered opinion that *prima facie*, there are serious allegations against the applicant which at this stage cannot be said to be without any material.

22. Therefore, considering the gravity of the offence and the facts as discussed above, this court is not inclined to grant bail to the applicant at this juncture.

23. It is made clear that the observations made in the present case are only for the purpose of considering the 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.

24. In view of the above, the present bail application is dismissed. Pending application also stands disposed of.

AMIT MAHAJAN, J

DECEMBER 15, 2025

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