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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 4260/2024 & CRL.M.A. 34897/2024**
MOHD. FURKANPetitioner

Through: Mr. Prashant Singhal and Md.
Zeeshan, Advocates.

versus

STATE (GNCT OF DELHI) AND ANRRespondents
Through: Mr. Mukesh Kumar, APP.
SI Pooja, P.S. Dayalpur.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER
% **10.01.2025**

1. This is the first application seeking regular bail under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023¹ (Old Section 439 of the Code of Criminal Procedure, 1973²).
2. The case of the prosecution is as follows:
 - 2.1. On 14th April, 2023, on a PCR call being received, a DD No. 7A, 8A was recorded in P.S. Dayalpur. Investigation was carried out which included an internal medical examination of the victim *vide* MLC No. 283. Subsequently FIR No. 305/23 was registered at P.S. Dayalpur under Sections 376, 377 and 506 of the Indian Penal Code, 1860³ and Section 6 of

¹ ['BNSS']

² [CrPC]

³ ['IPC']



the Protection of Children from Sexual Offences Act, 2012⁴ on the statement of the complainant.

2.2. The victim alleged that on the night of 7th April, 2023, her neighbour – i.e., the Petitioner lured and called her in the hall of his room and had forcible sexual relations with her, after which he threatened her to meet him whenever he called. Further, he would expose her in case she reported the matter to the police.

2.3. Between 7th April, 2023 to 14th April, 2023, the Petitioner seduced the victim and had physical relations with her on three occasions. During investigation, the statement of the victim under Section 164 of Cr.P.C. was recorded in which she supported the version of the FIR. During the investigation, biological exhibits of the accused and the victim were sent to FSL for their expert opinion, which confirmed that the Petitioner's DNA from the semen matched with the vaginal swab & smear of the victim. Accordingly, the chargesheet stands filed.

3. In the aforementioned background, Mr. Mukesh Kumar, APP for the State, strongly opposes the Petitioner's request for bail.

4. The Court has considered the aforementioned contentions. The Petitioner has been in custody since 14th April, 2023. Presently, all witnesses have been examined and only the Investigating Officer⁵ remains to be examined. Pertinently, the victim, her mother and maternal uncle have all been examined, however, none of them have supported the case of the prosecution. The victim along with her mother, who are present in the Court, do not oppose the bail application and state that they have no objection to

⁴ "POCSO"

⁵ "IO"



the accused being released on regular bail. Although the victim and her mother's consent to the bail is not a material consideration for this Court in matters of POCSO bail, however, considering the fact that prosecution evidence stands nearly concluded and neither the victim, nor her mother have supported the case of prosecution during their examination and also considering that the Petitioner has been in custody since 14th April, 2023, in the opinion of the Court, the Petitioner's request for bail can be accepted.

5. Accordingly, petitioner is granted regular bail and is directed to be released on bail on furnishing a personal bond to the sum of Rs. 25,000/- with one surety of the like amount, subject to the satisfaction of the Trial Court and further subject to the following conditions:

- i. Petitioner will not leave the country without prior permission of the Court.
- ii. Petitioner shall provide permanent address to the Trial Court where he shall reside during his release on bail. The Petitioner shall intimate the Court and to the IO, by way of an affidavit, regarding any change in residential address during his period of release.
- iii. Petitioner shall appear before the Court as and when the matter is taken up for hearing.
- iv. Petitioner shall join investigation as and when called by the IO concerned.
- v. Petitioner shall provide all mobile numbers to the IO concerned which shall be kept in working condition at all times and shall not switch off or change the mobile number without prior intimation to the IO concerned.
- vi. Petitioner shall not indulge in any criminal activity during his time of release.



vii. Petitioner shall neither come near the vicinity of the victim nor communicate with or come in contact with any of the prosecution witnesses, the complainant/victim or any member of the complainant/victim's family or tamper with the evidence of the case.

6. It is made clear that any observation touching the merits of the case is purely for the purposes of deciding the question of grant of bail and shall not be construed as this Court's expression on merits of the matter.

7. Copy of the order be sent to the Jail Superintendent for information and necessary compliance.

8. Accordingly, the petition is disposed of, along with pending applications.

SANJEEV NARULA, J

JANUARY 10, 2025

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