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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 4448/2024**
SANJEEV YADAVPetitioner

Through: Mr. Manoj Kumar Singh, Advocate.

versus
STATE OF NCT OF DELHIRespondent
Through: Mr. Mukesh Kumar, APP.
SI Rakesh Gilla, P.S. NFC.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER
% **14.08.2025**

1. The present application filed under Section 439 of the Code of Criminal Procedure, 1973¹ read with Section 582 of the Bharatiya Nagarik Suraksha Sanhita, 2023² seeks regular bail in the proceedings arising from FIR No. 162/2022 dated 7th April, 2022, registered at P.S. New Friends Colony for the offences under Sections 376/342/363 of the Indian Penal Code, 1860³ and Section 6 of the Protection of Children from Sexual Offences Act, 2012.⁴

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

2.1. On 7th April, 2022, a PCR call *vide* GD No. 75A was received from Taimur Nagar, Pahari No. 2, reporting the commission of rape on a minor girl aged approximately 7-8 years. The information was marked to HC

¹ "Cr.P.C."

² "BNSS"

³ "IPC"

⁴ "POCSO"



Jaipal for necessary action. Pursuant to the call, HC Jaipal reached the location of the incident and brought the Complainant 'SK' (Prosecutrix) along with her mother 'RK' to the police station. Considering the nature of the allegations, which involved sexual assault on a minor girl, the matter was entrusted to W/SI Priyanka for further investigation.

2.2. W/SI Priyanka recorded the statement of the Prosecutrix, wherein she stated that she was 12 years old. She alleged that the Applicant, who was her neighbour, took her to his house, whereafter he took off his pants, and committed penetrative sexual assault on her. Upon her mother's return, the Prosecutrix disclosed the incident to her.

2.3. Thereafter, the Prosecutrix was counselled by a CIC counsellor and medically examined at AIIMS Hospital, *vide* MLC No. 2610/22. Following the medical examination, the doctor handed over certain exhibits, which were taken into possession through a seizure memo.

2.4. During the course of investigation, the statement of the Prosecutrix was recorded under Section 164 of the Cr.P.C., wherein she stated that the 'uncle' (whose name she was unable to recall) resided on the same street as her residence. She alleged that the Applicant took her to his house, removed her clothes and spilled a water-like fluid on her. Thereafter, he removed his pants, gave her chocolate and began climbing on her.

2.5. The Applicant was arrested on 7th April, 2022 and remanded to judicial custody. The seized exhibits were forwarded to FSL Rohini, for examination. The report received from the laboratory was found to be positive. The age of the Prosecutrix was verified through the records of SDMC Primary School, Khizrabad, New Delhi, and was confirmed to be 10 years and one month at the time of the incident.



2.6. Upon completion of the investigation, a chargesheet was filed before the Court, and charges under Sections 363, 366A, 342, 376 of the IPC and Section 6 of the POCSO were framed against the Applicant.

2.7. During the trial, the Prosecutrix and her mother have consistently supported the allegations contained in the FIR.

2.8. The Applicant's bail application was previously dismissed by the Trial Court *vide* order dated 30th May, 2025.

3. Counsel for Applicant seeks regular bail on the following grounds:

3.1. The Applicant is innocent, and has been falsely implicated in the present case. Further, regard must also be given to the fact that the Applicant is a senior citizen.

3.2. The investigation has been completed and the matter is currently at the stage of trial, with the statements of the Prosecutrix and her mother having been recorded. Therefore, the Applicant's continued detention is no longer necessary, and will serve no fruitful purpose.

3.3. The Applicant has a clean record and, considering his advanced age and health conditions, his detention is causing him undue hardship and irreparable injury.

3.4. The object of bail is to ensure the presence of the accused during trial and is neither punitive nor preventive. The Applicant has been in custody since 8th April, 2022, and the conclusion of the trial is likely to take further time. Therefore, the Applicant's continued pre-trial incarceration is unwarranted, and amounts to punitive detention.

4. Mr. Mukesh Kumar, APP for the State, opposes the bail application on the grounds that the allegations against the Applicant are of a heinous nature, involving the alleged commission of penetrative sexual assault on a



child aged 12 years. He submits that both the Prosecutrix and her mother have consistently supported the Prosecution's case. In addition to the Prosecution testimony, he points to scientific evidence in the form of the FSL report, which clearly implicates the Applicant. In view of the gravity of the offence and the supporting evidence, he contends that the Applicant's advanced age is not a sufficient ground to release him on bail

5. The Court has considered the submissions advanced by both parties. The Applicant stands accused of a grave and serious offence under Section 6 of the POCSO Act, involving allegations of committing aggravated penetrative sexual assault on a child aged merely 10-12 years at the relevant time. While it is noted that the Applicant has been in judicial custody since 8th April, 2022, this fact alone does not outweigh the gravity of the offence alleged against him.

6. The Prosecutrix, in her statements, has consistently supported the allegations, which form the foundation of the FIR. Furthermore, it is pertinent to note that the Trial Court, while considering the Applicant's bail application, had interacted with the Prosecutrix and her mother, both of whom expressed a credible apprehension for their safety in the event of his release, particularly as the Applicant resides directly opposite their residence. This proximity, coupled with the gravity of the allegations, strengthens the concern of potential intimidation or undue influence.

7. In addition to the statements of the Prosecutrix and her mother, the Prosecution's case is supported by positive scientific evidence, as reflected in the FSL Report. While the probative and evidentiary value of the scientific evidence shall be examined at the stage of trial; however, in the opinion of the Court, the Prosecution has made out a *prima facie* case



justifying the denial of bail to the Applicant.

8. At this juncture, it is apposite to refer to the judgement of the Supreme Court in the recent case of ***Bhagwan Singh v. Dilip Kumar alias Deepu alias Deepak and Anr.***,⁵ wherein the Court emphasised that bail is a discretionary relief, to be granted or denied based on the specific facts and circumstances of each case. The Court further delineated the factors to be taken into consideration while exercising such discretion. The relevant extracts of the aforementioned judgment are as follows:

“11. The grant of bail is a discretionary relief which necessarily means that such discretion would have to be exercised in a judicious manner and not as a matter of course. The grant of bail is dependent upon contextual facts of the matter being dealt with by the Court and may vary from case to case. There cannot be any exhaustive parameters set out for considering the application for grant of bail. However, it can be noted that:

11.1. While granting bail the court has to keep in mind factors such as the nature of accusations, severity of the punishment, if the accusations entail a conviction and the nature of evidence in support of the accusations.

11.2. Reasonable apprehensions of the witnesses being tampered with or the apprehension of there being a threat for the complainant should also weigh with the Court in the matter of grant of bail.

11.3. While it is not accepted to have the entire evidence establishing the guilt of the accused beyond reasonable doubt but there ought to be always a prima facie satisfaction of the Court in support of the charge.

11.4. Frivolity of prosecution should always be considered and it is only the clement of genuineness that shall have to be considered in the matter of grant of bail and in the event of there being some doubt as to the genuineness of the prosecution, in the normal course of events, the accused is entitled to have an order of bail.”

[Emphasis Supplied]

9. In light of the foregoing legal principles, we must also give due regard to the substantial disparity in age between the Applicant, a senior citizen, and the child victim, who was of tender years at the relevant time.

⁵ 2023 INSC 761.



Such an imbalance, coupled with the nature of the allegations, heightens the gravity of the offence. The evidence adduced so far, including the consistent statements of the Prosecutrix under Sections 161 and 164 Cr.P.C., medical examination, and the FSL report, provides *prima facie* corroboration to the Prosecution's case. In these circumstances, and particularly having regard to the stage of trial and the apprehensions expressed by the Complainant and her mother, this Court does not find any compelling ground to enlarge the Applicant on bail. The application is accordingly dismissed.

10. 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.

SANJEEV NARULA, J

AUGUST 14, 2025

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