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

+ **BAIL APPLN. 4619/2025 & CRL.M.A. 35638/2025**

AVDESH

.....Petitioner

Through: Mr. Atul Verma, Mr. Nayendra Singh, Mr. Bibhash Sharma and Ms. Nivedita Sharma, Advocates.

versus

STATE (GOVT OF NCT OF DELHI) AND ANRRespondents

Through: Mr. Hemant Mehla, APP for State along with SI Rajat Khaiwal, PS Ranhola.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

% **01.12.2025**

1. This application under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023¹ seeks pre-arrest bail in FIR No. 0768/2024 under Sections 137(2)/64(1) of the Bharatiya Nyaya Sanhita, 2023² and Section 6 of the Protection of Children from Sexual Offences Act, 2012,³ registered at P.S. Ranhola.

2. The FIR was registered on the complaint alleging that the victim, then aged about 15 years and 11 months, had gone missing from her residence on 09th November, 2024. She was traced on 21st April, 2025, whereafter she

¹ "BNSS"

² "BNS"

³ "POCSO"



was medically examined and her age was verified from school records. In her statement, she stated that she had left home with the accused Avdhesh, travelled with him to Sambhal, U.P., purportedly married him at a temple, and resided with him as his wife. At the time of recovery, she was found to be pregnant and subsequently underwent medical termination of pregnancy on 10th May, 2025. During investigation, the accused joined proceedings on 06th September, 2025, pursuant to interim protection and disclosed that he had known the victim for several years, claimed that she accompanied him voluntarily, and alleged that her parents intended to marry her off for monetary consideration. The prosecution, however, asserts that prior to joining investigation, the accused remained deliberately unavailable: his mobile phone was found switched off; he could not be located at his residence despite repeated attempts; and he failed to comply with notices issued under Section 35(3) of the BNSS, which ultimately led to the issuance of non-bailable warrants for securing his presence.

3. Counsel for the Applicant contends that the Applicant has been falsely implicated and that Respondent No. 2 is, in fact, his legally wedded wife. It is asserted that the parties solemnised a marriage at Sambhal, U.P., on 05th November, 2024, according to Hindu rites and customs. He submits that prior to their marriage they became acquainted while working together at 'MPS Karate', Vikas Nagar, Delhi, a company selling martial arts equipment. Their acquaintance developed into a consensual relationship, and that their decision to marry was mutual and voluntary. He submits that the victim had, on several occasions, met the Applicant's mother and introduced herself as a 21-year-old, stating that she had been working since the age of 18 due to poor financial circumstances at home. Reliance is also placed on



the victim's subsequent statement under Section 183 BNSS, wherein she described her age as 19 years, which undermines the allegation that she was a minor and supports the case that the relationship was consensual. Photographs said to depict the parties' marriage have also been placed on record to reinforce the plea that they were in a genuine relationship and that no offence of sexual assault is made out.

4. Mr. Hemant Mehla, APP for the State, opposes the bail application. He submits that irrespective of the Applicant's assertions of consent or marriage, the material on record conclusively establishes that the victim was a minor at the time of the incident. Her date of birth, verified from school records, is 01st January, 2009, making her about 16 years and 3 months old when she appeared at the police station on 21st April, 2025. At that stage, she was found to be approximately 5 months pregnant, which she attributed to her physical relationship with the Applicant. It is submitted that, in law, the consent of a minor is immaterial and any sexual act with a child constitutes an offence under the POCSO Act, and any purported marriage with a minor is itself illegal. Therefore the Applicant's plea of consensual relationship or claimed marriage cannot dilute the gravity of the allegation or justify pre-arrest protection.

5. The Court has considered the rival submissions. The Trial Court, while rejecting the Applicant's prayer for anticipatory bail, interacted with the victim in camera and specifically recorded that she opposed the grant of such relief. The victim stated that the Applicant had threatened her to declare before the Magistrate that she was above 18 years of age, which explains the earlier inconsistent statement recorded under Section 183 BNSS. Taking note of this assertion, the Trial Court concluded that the



nature of the allegations, coupled with the victim's opposition and the seriousness of the offences involving a minor, did not warrant the grant of anticipatory bail at that stage.

6. Having regard to the material presently available, this Court finds substance in the prosecution's objection. Although the victim's statement under Section 183 BNSS reflects a version that is inconsistent with her subsequent stand, the school records placed on record clearly indicate her date of birth as 01st January, 2009. She was therefore below 16 years of age on the date of the incident. On this factual foundation, the statutory bar under Section 482(4) BNSS, stands attracted.

7. Moreover, the victim statement that the Applicant pressured and threatened her to misstate her age before the Magistrate, reinforces the apprehension of undue influence and interference at the pre-trial stage. In a case involving a minor, allegations of this nature cannot be lightly brushed aside. Viewed cumulatively, the nature of the accusation, the established minority of the victim, the allegation of threats, and the express statutory embargo on anticipatory bail, leave no room for extending pre-arrest protection to the Applicant.

8. Accordingly, the Application is dismissed along with the pending application(s).

SANJEEV NARULA, J

DECEMBER 1, 2025/MK