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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 4783/2024**

MOHD MOHSIN ANWAR

.....Petitioner

Through: Mr. Adit S. Pujari, Ms. Nehal A. Siddiquee, Mr. Manvendra Singh Sekhawat, Mr. Mansoor, Mr. Md. Arif Hussain, Adv.

versus

THE STATE GOVT OF NCT DELHI

.....Respondent

Through: Mr. Tarang Srivastav, APP with SI Pratiksha, PS Prem Nagar.
Mr. Shiv Chopra, DHCLSC, Adv.
with Mr. Shravan Pandey, Ms. Surbhi Arora, Adv.

5.

+ **BAIL APPLN. 4784/2024**

MOHD TAHSIM

.....Petitioner

Through: Mr. Adit S. Pujari, Ms. Nehal A. Siddiquee, Mr. Manvendra Singh Sekhawat, Mr. Mansoor, Mr. Md. Arif Hussain, Adv.

versus

THE STATE GOVT OF NCT DELHI

.....Respondent

Through: Mr. Tarang Srivastav, APP with SI Pratiksha, PS Prem Nagar.
Mr. Shiv Chopra, DHCLSC, Adv.
with Mr. Shravan Pandey, Ms. Surbhi Arora, Adv.

CORAM:

HON'BLE MR. JUSTICE RAVINDER DUDEJA

ORDER



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09.10.2025

1. The present applications have been filed under Section 482 BNSS [Section 438 Cr.P.C.] seeking grant of anticipatory bail to the petitioner/applicant namely Mohd. Mohsin Anwar [in BAIL APPLN. 4783/2024] and petitioner/applicant namely Mohd. Tahsim [in BAIL APPLN. 4784/2024] in FIR No. 0578/2024, registered at PS Prem Nagar for offences under Sections 74/78/134/324(2) BNS and Section 8 of the POCSO Act.

Factual Background

2. An FIR no. 0578/2024 was registered on the statement of victim aged about 17 years under Section 74/78/134/324(2) BNS and Section 8 POCSO Act, 2012. As per allegations, applicant Mohd. Mohsin Anwar used to stalk the victim while going to school and coming back home. He had been doing all this since 2022. On 31.10.2024, he along with his brother Zafar and few other persons came to her home and pelted stones and while leaving, Mohsin snatched the gold chain from her mother's neck.

2.1 Applicants filed an application for grant of anticipatory before the Sessions Court. Pending the disposal of anticipatory bail application, the applicants were provided interim protection with direction to join the investigation. The application ultimately came to be dismissed vide order dated 19.12.2024.

Submissions on behalf of the applicants

3. Learned counsel for the applicants submits that the allegations are false and have been fabricated at the behest of the complainant's family with whom the applicants have been on hostile terms. The applicants had earlier



faced threats of false implication from the complainant's father and brother due to communal differences and an altercation in 2022. It is submitted that on 31.10.2024, Mohd. Mohsin had visited his friend Rahul Kumar's house for Diwali festivities when the complainant's family members allegedly confronted him and abused him.

3.1 It is the applicants' case that the FIR was a product of hostility and that the alleged incident of harassment never occurred. It is argued that the applicant Mohd. Mohsin and the complainant are known to each other. Reliance was placed on Instagram Chats placed on record- which reveal that the complainant and applicant Mohd. Mohsin were in contact through Instagram and WhatsApp chats and video calls, thereby showing conversations of mutual friendship.

3.2 Ld. counsel further emphasised that the present FIR suffers from delay- thereby undermining its credibility. It is stressed that the allegations under Section 8 of the POCSO Act are vague, with no specific instance or act of sexual intent attributed to the petitioner. Counsel points out that the FIR appears to have been lodged as a counterblast to a neighbourhood quarrel, and that the alleged snatching of a gold chain is only a pretext for continued harassment.

3.3 It is also contended that the maximum punishment for the alleged offences is five years and the applicants have no prior criminal antecedents. The applicants have already joined the investigation pursuant to interim protection granted and have fully cooperated with the Investigating Officer by willingly placing Instagram chats with complainant on record. Therefore, custodial interrogation is unnecessary. Reliance is placed on the judgments of the Hon'ble Supreme Court in **Arnesh Kumar v. State of Bihar** (2014) 8



SCC 273 and *Sushila Aggarwal v. State (NCT of Delhi)* (2020) 5 SCC 1 to argue that arrest should not be resorted to mechanically.

Submissions on behalf of the State

4. Learned APP has opposed the bail applications submitting that the allegations made in the FIR are grave and serious in nature and pertaining to sexual harassment of a minor girl, aged about 17 years, whose consent is immaterial. It is contended that the applicant's conduct of following, intimidating and threatening the victim reflects instances of harassment which cannot be ignored.

4.1 It is further submitted that the gold chain is still not recovered. However, upon instructions from IO he fairly states that the investigation is complete, charge sheet is already prepared and is likely to be filed very soon. He further states that applicants are no more required for custodial investigation.

4.2 Learned counsel for the complainant, further submits that the chats relied upon by the applicant Mohd. Mohsin are self-serving and selectively produced to create a false impression of friendship. The complainant was coerced into chatting with the applicant Mohd. Mohsin as he used to stalk and follow her. He contends that the complainant is a minor, and any consent or familiarity cannot dilute the rigour of the POCSO Act. He argues that the Court should exercise restraint in granting anticipatory bail in such matters, particularly where the allegations involve harassment of a minor girl.

Analysis and Reasoning

5. It is a settled law that anticipatory bail is an extraordinary remedy and is not to be granted as a matter of course. However, the Court must ensure



that the personal liberty is not curtailed where justified by compelling reasons.

6. As per Status Report itself, applicant Mohsin has produced his mobile phone to show that the victim was his friend and they used to talk with each other on *Instagram*. During investigation, police seized the mobile phone of applicant Mohsin and took out the *Instagram* chats. Copy of the *Instagram* chats placed on record shows that applicant Mohd. Mohsin and complainant were in close friendship with each other.

7. Status Report further reveals that following the order of the Sessions Court, applicants have already joined the investigation and were interrogated.

8. The FIR was registered after a delay of six days. No doubt, the victim being minor, and that being so, her protection under the POCSO Act are factors of utmost importance, yet such protection does not automatically warrant the denial of anticipatory bail. There is no material on record to indicate that applicants are flight risk or will intimidate the complainant if granted pre-arrest bail. In any case, the apprehension of threat or intimidation can be allayed by imposing strict conditions to ensure that the applicants do not approach or influence the complainant or her family.

9. The Hon'ble Supreme Court in ***Arnesh Kumar v. State of Bihar, (2014) 8 SCC 273*** cautioned against automatic arrests in cases where the maximum punishment is below seven years, directing police to exercise restraint. The offences alleged in the present case carry a maximum sentence of five years.

10. Considering the overall facts and circumstances of the case, and more particularly, in the light of the *Instagram* chats between the complainant and



the applicant Mohd. Mohsin Anwar and the absence of any necessity for custodial interrogation, this Court is of the opinion that the applicants have made out a *prima facie* case for grant of pre-arrest bail.

11. Accordingly, both the present applications are allowed subject to the following conditions:

- i. In the event of arrest of the applicants, they shall be released on bail on furnishing a personal bond in the sum of Rs.20,000/- each with one surety of like amount to the satisfaction of the Arresting Officer/SHO/IO concerned.
- ii. The applicants shall join investigation as and when directed by the IO and shall cooperate fully.
- iii. They shall not contact, approach, or attempt to influence the complainant or her family in any manner.
- iv. They shall not tamper with evidence or intimidate witnesses.
- v. They shall provide their mobile number to the IO, keep it operational at all times, and intimate any change of address.
- vi. They shall not leave India without prior permission of the Court.

12. It is clarified that nothing stated herein shall tantamount to an expression on the merits of the case.

13. The present applications are accordingly allowed and disposed of alongwith pending application(s), if any.

RAVINDER DUDEJA, J

OCTOBER 9, 2025/AK