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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 37/2025, CRL.M.A. 181/2025**
GOKUL @ GOVINDPetitioner
Through: Mr. Gaurav Kakar, Mr. Daood
Ahmed and Mr. Hardik Nagpal,
Advocates.

versus

STATE GOVT. OF NCT OF DELHI AND ANR.Respondents
Through: Mr. Mukesh Kumar, APP for State.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER
08.01.2025

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1. Through the present bail application filed under Section 439 of Criminal Procedure Code, 1973¹ read with Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023², the Applicant seeks grant of bail in SC No. 507/2018, arising out of FIR No. 426/18 registered at Police Station, Aman Vihar, under Section 6 of the Protection of Children from Sexual Offences Act, 2012.³
2. The Petitioner had earlier on six occasions applied for regular bail, however, on all such occasions, the request has been declined. The latest decision of the Trial Court dismissing the Petitioner's request was passed on 7th December, 2024.
3. Counsel for the Petitioner contends that the order dated 7th December, 2024 rejecting Petitioner's bail application by the Sessions Court, is

¹ "CrPC"

² "BNSS"

³ "POCSO"



erroneous and has been passed without any application of mind. The Sessions Court has dismissed the application on the ground that the chargesheet shows that the victim has levelled allegations against the Applicant of committing aggravated sexual assault by way of penetration of fingers, however, the victim's mother in her examination dated 29th January, 2020 stated that the Applicant has raped the victim by way of penal penetration, which she witnessed by looking through the door's key hole in the Applicant's room. In this connection, it is argued that it is not even an allegation that the Applicant had committed the aggravated sexual assault by way penetration. This is an improvised version of the victim's mother which is self-contradictory in nature.

4. Furthermore, counsel for the Applicant argues that he was arrested on 16th May, 2018 and he has been in judicial custody for more than 6 and half years. The matter before the Sessions Court is at the stage of prosecution evidence since 29th November, 2018 and the same has not been completed despite the lapse of 6 years. The delay has occurred on account of non-appearance of the prosecution witnesses as is evident from the orders cited in the petition. This delay on the part of the prosecution therefore, entitles the Applicant to be released on bail.

5. On the other hand, APP for the State, strongly opposes the Applicant's request. He submits that the prosecution evidence is now at advance stage and only two formal witnesses are required to be examined. The prosecution shall ensure that the trial progresses expeditiously. He further submits that at this stage, the Court is not to form a final opinion on the evidence that has come on record by conducting a detailed examination. Nonetheless, the evidence in the nature of testimony of the victim as well as



her parents, sufficiently established the incident and the offence. In such circumstances, considering the nature of the offence in question and the fact that the Petitioner is found residing in the same building where the victim was residing at the time of the incident, there is a strong apprehension of the Applicant influencing the witnesses and therefore, the application ought not to be allowed.

6. The Court has considered the facts and submissions of the parties. The trial has progressed and only two prosecution witnesses remain to be examined. As pointed out by the APP, the delay in recording the evidence is not entirely attributable to the prosecution as the Applicant himself has filed an application under Section 311 of CrPC before the Trial Court, which led to the recall of witnesses and contributed towards the delay. Moreover, it must be considered that the prosecutrix is a child who was of the tender age of five years at the time of the incident. She has also been examined along with her mother. The alleged discrepancies that have been pointed out by the Applicant, cannot at this stage be considered by this Court by conducting a meticulous analysis to give a finding as to the Applicant's innocence.

7. Considering the nature of the offence, the tender age of the victim and the other circumstances noted above, the Court is not inclined to entertain the present petition.

8. Accordingly, the present bail application, along with pending application, is dismissed.

SANJEEV NARULA, J

JANUARY 8, 2025/nk