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

+ **BAIL APPLN. 105/2025**

ANWAR ALI THROUGH PEROKAR AKRAM ALIPetitioner

Through: Mr. Chakit Singhal, Mr. Rajat Gandhi
and Mr. Hardik Yadav, Advocates.

versus

STATE (NCT OF DELHI)Respondent

Through: Mr. Amit Ahlawat, APP for State
with Ms. Doli Tevathia, Si, PS-
Adarsh Nagar.
Ms. Inderjeet Sidhu, Advocate
(DHCLCS) for Prosecutrix.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

% **21.02.2025**

1. The present application filed under Section 483 read with Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023¹ seeks regular bail in Session Case No. 725/2024 arising from FIR No. 596/2024 registered under Section 376 of Indian Penal Code, 1860² read with Section 6 of The Protection of Children from Sexual Offences Act, 2012³ at P.S. Adarsh Nagar. Subsequently, a chargesheet has been filed and the Applicant has been charged with the aforesaid offences.
2. A copy of the status report has been handed over across the Board and

¹ "BNSS"

² "IPC"

³ "POCSO Act"



is taken on record.

3. Briefly, the case of the prosecution is as follows:

3.1. The present FIR has been registered based on a complaint lodged by Ms. 'R', who alleged that her daughter, Ms. 'S', had been employed as a steel polish worker at a factory owned by the Applicant for the past two years. According to the complaint, the Applicant developed a physical relationship with Ms. 'S' under the false promise of marriage. Later, he refused to marry her, citing that he was already married and had two children. Distressed by this revelation, Ms. 'S' attempted to commit suicide by jumping from an underpass.

3.2. Thereafter, the Prosecutrix was taken to the Max Hospital Shalimar Bagh and was admitted through MLC No. 6079/2024. Subsequently, she was transferred to Sushrut Trauma Centre, Civil Lines.

3.3. During the investigation, on 27th September, 2024, when the victim regained consciousness, her statement was recorded under Section 180 of BNSS (formerly Section 161 of the Code of Criminal Procedure, 1973⁴). In her statement, she recounted that she had been working at the Applicant's factory for two years, during which the Applicant began pursuing her. After repeated assurances of marriage, she agreed to communicate with him. In September, 2023, the Applicant allegedly took her to his residence in Bhalswa Dairy and established a physical relationship with her. She further alleged that in November, 2023, she became pregnant with the Applicant's child, following which he gave her medication to induce an abortion. In 2024, during *Bakra Eid*, the Applicant again established physical relations

⁴ "Cr.P.C."



with her, leading to another pregnancy. This time, she claimed the Applicant took her to a clinic in Moradabad to terminate the pregnancy. On 24th September, 2024, the Applicant revealed that he was already married and could not marry her. The following day, when she approached Bhalswa Police Station to file a complaint, the Applicant reiterated his refusal, which allegedly led her to attempt suicide by jumping from an underpass. Her medical examination was later conducted at Lok Nayak Hospital.

3.4. Subsequently, the Prosecutrix's statement under Section 183 of BNSS (formerly Section 164 of Cr.P.C.) of the victim was recorded on 4th October, 2024 wherein she failed to corroborate the allegations made in her earlier statement recorded under Section 180 of BNSS. Pursuant to the completion of the investigation, a chargesheet was filed before the ASJ, POCSO Court on 11th November, 2024.

3.5. In absence of documentary proof of age, the ossification test of the Prosecutrix was conducted on 6th November, 2024, and the report reveals her age between 25-40 years. Consequently, the charge under Section 6 of the POCSO Act was dropped, and the case was transferred to the Regular Sessions Court for trial.

3.6. The Prosecutrix and her mother were taken to Moradabad for identification of the clinic where her foetus was aborted by the Applicant, however, she failed to identify any such clinic.

4. In the afore-noted background, the Applicant urges that he has been falsely implicated in the present case. He asserts that his relationship with the Prosecutrix, if any, was consensual. In support of this claim, he relies on the MLC report from Lok Nayak Hospital, wherein the Prosecutrix allegedly



admitted to engaging in consensual sexual relations with the Applicant under the belief of a potential marriage. Additionally, the Applicant highlights that the Prosecutrix had been personally acquainted with him for over 18 months due to her employment at his factory and was fully aware of his marital status. This fact, he claims, was also common knowledge among other factory workers. The Applicant denies ever making any promise of marriage. In any case, since the investigation has concluded and the chargesheet has been filed, his continued incarceration serves no purpose.

5. On the other hand, Mr. Amit Ahlawat, APP for the State, strongly opposes the bail application, asserting that the allegations levelled by the Prosecutrix are serious in nature. He contends that the Applicant, being a married man, misled the Prosecutrix by making false promises of marriage solely to establish a sexual relationship. Therefore, the alleged consent was obtained through deception and cannot be considered valid, thereby attracting the provisions of Section 376 of IPC. He further argues that crucial witnesses are yet to be examined, and there is a real apprehension that if the Applicant is released on bail, he may attempt to influence the witnesses. Additionally, he emphasizes that the Prosecutrix was driven to attempt suicide due to the Applicant's failure to fulfil his promise of marriage, leading her to jump from an underpass and sustain multiple injuries.

6. Since the Prosecutrix requested for legal representation, the Court appointed Ms. Inderjeet Sidhu, DHCLSC, to represent her. She has been heard and, on instructions from the Prosecutrix, who was present during the proceedings, she states that the Prosecutrix does not oppose the present bail



application, admitting that the relationship with the Applicant was consensual and that she was aware of his marital status from the outset. She also clarifies that there was no instance of sexual assault in the relationship with the Applicant.

7. The Court has considered the afore-noted contentions. While the FIR undeniably contains serious allegations against the Applicant, certain factors emerging from the record warrant close scrutiny. In the statement given by the Prosecutrix under Section 183 of BNSS, the Prosecutrix explicitly denied having had any physical relationship with the Applicant, directly contradicting the allegations made in her earlier statement under Section 180 of the BNSS. Further, her stance during the present proceedings, suggests that the relationship was, *prima facie* consensual. Although the Prosecutrix's lack of objection to the granting of bail is not determinative in itself, nonetheless, it lends some weight to the Applicant's assertion of innocence, raising a degree of doubt on the credibility of the prosecution's claims. Moreover, the chargesheet has already been filed, and the Applicant has been in judicial custody since 29th September, 2024. In light of the conflicting statements of the Prosecutrix and the absence of any conclusive evidence suggesting that the Applicant poses a risk of influencing witnesses or obstructing the trial, the Court finds that continued incarceration of the Applicant at this stage is unwarranted.

8. In view of the foregoing, the present application is allowed and the Applicant is directed to be released on bail on furnishing a personal bond for a sum of INR 50,000/- with one surety of the like amount, subject to the satisfaction of the Trial Court/Duty MM, on the following conditions:



- a. The Applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case or tamper with the evidence of the case, in any manner whatsoever;
 - b. The Applicant shall not contact the victim or any of her family members;
 - c. The Applicant shall under no circumstance leave the country without the permission of the Trial Court;
 - d. The Applicant shall appear before the Trial Court as and when directed;
 - e. The Applicant shall provide the address where he would be residing after his release and shall not change the address without informing the concerned IO/ SHO;
 - f. The Applicant shall, upon his release, give his mobile number to the concerned IO/SHO and shall keep his mobile phone switched on at all times;
 - g. The Applicant shall report to the concerned P.S. on the first Monday of every month.
9. In the event of there being any FIR/DD entry/complaint lodged against the Applicant, it would be open to the State to seek redressal by filing an application seeking cancellation of bail.
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 shall also not be taken as an expression of opinion on the merits of the case.



11. The bail application is allowed in the afore-mentioned terms.

SANJEEV NARULA, J

FEBRUARY 21, 2025

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