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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 507/2025**
SARFARAZPetitioner

Through: Mr. Ayub Khan, Mr. Asim Kirmani
and Ms. Diksha Nishad, Advocates

versus

THE STATE GOVT OF NCT OF DELHIRespondent
Through: Mr. Utkrash, APP for the with SI
Shakuntla, PS Jamia Nagar

CORAM:
HON'BLE MR. JUSTICE VIKAS MAHAJAN

ORDER

05.03.2025

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1. The present petition has been filed seeking regular bail in connection with FIR No. 408/2024 under Sections 75 (iv) B.N.S. & Section 12 of POCSO Act registered at Police Station Jamia Nagar, New Delhi.
2. The case of the prosecution is that on 11.11.2024, FIR was registered based on a PCR call received at the instance of complainant's mother alleging that petitioner tried to sexually assault her daughter. The complainant/victim is stated to be a school girl aged about 9 years and the petitioner/accused used to come to do household chores in the house of victim. As per prosecution version petitioner/accused on 10.11.2024 while playing with the victim had bad intention and victim's mother warned the petitioner/accused not to come again. However, on 11.11.2024, the petitioner/accused was caught by the other servant and the father of the victim and subsequently FIR was registered.



3. Learned counsel appearing on behalf of the petitioner submits that the offence under Section 12 of POCSO Act is not attracted, in as much as, there is no allegation that the petitioner/accused has committed any sexual harassment upon the victim. He submits that petitioner/accused is already in custody since 12.11.2024 and the custody of the petitioner is no more required.

4. He submits that the petitioner/accused is aged about 24 years and he has no previous criminal antecedents. He, therefore, urges that the petitioner/accused may be enlarged on bail.

5. *Per contra*, learned APP appearing for the State has argued on the lines of the status report. He submits that the offence under Section 12 of the POCSO Act is made out.

6. I have heard the learned counsel appearing for the petitioner, as well as, learned APP for the State. The contention of the learned counsel for the petitioner as noted above is that the offence under Section 12 of POCSO Act is not made out whereas the learned APP has urged that the offence under the said provision is attracted. Be that as it may, it is not in dispute that petitioner/accused is already in custody since 12.11.2024 and the maximum sentence which can be awarded for the offence under Section 12 of POCSO is 3 (three) years and no minimum punishment has been prescribed therefor. Further, it is also not a case of sexual assault or aggravated sexual assault.

7. Furthermore, petitioner/accused is stated to be a young boy of 24 years, who does not have any criminal record. The custody of the petitioner is no more required as the investigation has been concluded and the chargesheet has been filed.

8. The presence of petitioner during the trial can also be ensured by



imposing appropriate conditions.

9. Having regard to the aforesaid facts and circumstances in entirety, this court is of the view that the petitioner has made out a case for grant of regular bail. Accordingly, the petitioner is admitted to regular bail subject to his furnishing a personal bond in the sum of Rs. 20,000/- with one surety of the like amount to the satisfaction of the learned Trial Court/JMFC/Duty JM, further subject to the following conditions:

- (a) Petitioner shall appear before the Court as and when the matter is taken up for hearing.
- (b) Petitioner shall provide mobile number to the IO concerned which shall be kept in working condition at all times and he shall not change the mobile number without prior intimation to the Investigating Officer concerned.
- (c) Petitioner shall not indulge in any criminal activity and shall not communicate with or come in contact with the victim or any family members of the victim directly or indirectly.

10. It is clarified that the observations made herein above are only for the limited purpose of deciding the present bail application and the same shall not be construed as an expression of opinion on merits of the case.

11. The application is disposed of.

12. Copy of the order be forwarded to the concerned Jail Superintendent for necessary compliance.

13. Order *dasti* under signatures of the Court Master.

VIKAS MAHAJAN, J

MARCH 5, 2025/‘rs’