



2025:DHC:9885



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Reserved on: 06.11.2025
Date of Decision: 13.11.2025

+ **BAIL APPLN. 905/2025**
MOHAMMAD ALIPetitioner
Through: Ms. Medhavi Tyagi and
Mr. Utsav Kumar, Advocates

versus

STATE OF NCT OF DELHI THROUGH SHO, PS OKHLA
INDUSTRIAL AREA & ANR.Respondents
Through: Mr. Raghuinder Verma, APP
for the State with W/SI Jyoti

CORAM:
HON'BLE MR. JUSTICE AJAY DIGPAUL

J U D G M E N T

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1. The present petition has been filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023¹, seeking enlargement of the petitioner on regular bail in connection with FIR no. 296/2023² registered at Police Station Okhla Industrial Area under Section 376AB of the Indian Penal Code, 1860³, and Section 6 of the Protection of Children from Sexual Offences Act, 2012⁴.
2. Referring to the contents of the subject FIR which had been registered upon the complaint of the mother of the victim, the crime allegedly took place on 22.05.2023. The complainant/victim's mother,

¹ BNSS hereinafter

² Subject FIR

³ IPC hereinafter

⁴ POCSO hereinafter



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who states to have been a cloth cutter at a ladies *kurti* making company run by one Mr. Shaukat, was going about her day as usual when her minor children (son and daughter, aged 9 and 8 years respectively) showed up at the factory as they were playing at around 2.00 pm.

3. It is reported by the complainant that the accused/petitioner asked the children to accompany him to see his room. It is pointed out by the complainant that the accused at this time was living at the same residence where the complainant and her family used to live in the past.

4. A short while thereafter, the complainant reports to have seen her son return to the factory. Upon questioning her son, the complainant came to know that her daughter was taken by the petitioner to his room. The complainant then approached a coworker to call the petitioner and ask him to return to the company premises.

5. After her work for the day was done, at around 8.00 pm, the complainant spoke to her daughter and was told that the petitioner had touched her daughter's genital region. Upon hearing this, the complainant confronted the petitioner who is stated to have apologised to her. Hearing this, the complainant contacted the police the next day.

6. The petitioner approached learned ASJ SC (POCSO), Saket Courts, seeking to be enlarged on regular bail. His application was dismissed *vide* order dated 14.02.2024 with observations that the allegations are serious in nature, that the victim had deposed, unequivocally, that she was aged around 9 years at the time of the incident, and that the victim had correctly identified the accused.



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Furthermore, the court noted that 5 material witnesses were yet to be examined and that two of these witnesses were the mother and brother of the victim along with one public eyewitness.

7. The petitioner once again sought bail before a learned ASJ SC (POSCO), Saket Courts, but the same as dismissed *vide* order dated 11.09.2024.

8. Ms. Medhavi Tyagi, learned counsel appearing on behalf of the petitioner, submits that the petitioner is innocent. She submits that the testimony of the victim, to the extent of portions narrating what the victim's brother/ mother heard and experienced *vis-à-vis* a second-hand account of events constitutes hearsay and is a telltale sign of testimony tutoring.

9. Ms. Tyagi goes on to submit that animosity existed between the complainant and the petitioner, based on certain financial events. Without going in to much detail with regard to this vein of argumentation, she submits that in addition to this, that the complainant deposed having had her daughter return from the petitioner's room within 4-5 minutes of leaving the factory, and that this is factually impossible as it takes a longer duration to even walk from the factory to the room of the petitioner.

10. Lastly, Ms. Tyagi presses that the allegations, as corroborated by the victim's testimony, only extend to application of oil on the victim's genitals, and do not extend to penetration, and therefore the charges recorded in the chargesheet under Section 376AB of the IPC and Section 6 of the POCSO Act do not find their application to the present set of facts.



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11. Learned APP for the State, Mr. Satish Kumar, opposes bail on the grounds of gravity of offences levelled against the petitioner, the age of the victim, and the victim's identification of the petitioner during her deposition. He is joined in such opposition by the complainant / mother of the victim, who appears in person.

12. Heard learned counsel and perused the record.

13. This Court considers the defence raised by Ms. Tyagi to the extent of pre-existing animosity between the complainant and the petitioner. However, under this argument falters under the weight of minimal scrutiny, due to its lack of substantiation – either through a narration of preceding events or any documentary or other evidence on record to *prima facie* establish any animosity between the complainant and the petitioner.

14. While Ms. Tyagi was keen on pressing her argument regarding the impossibility of the complainant's version of events, considering the practicality of the actual time taken to travel from the factory to the petitioner's residence – this Court fails to be persuaded. Ms. Tyagi's arguments may not be weighed effectively without being subject to the scrutiny of trial. However, the same is an exercise lying outside the ambit of considerations to be made at the stage of bail.

15. The same principle extends to any arguments raised by her concerning tutoring of the victim's testimony, especially noting that the child is of a tender age and is bound to have innocently included her mother and brother's accounts of events while testifying.

16. A perusal the victim's testimony indicates that the victim has been unequivocal in her stance on the act of application of oil on her



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genitals by the petitioner, and she has successfully identified him. Any further dissection of the victim's testimony cannot be permitted at the stage of bail.

17. In addition to this, the status report on record notes the testimony of an independent witness (the daughter of the factory owner) who was the girl seen by the victim outside the petitioner's room. This testimony corroborates that a witness did see the victim and the petitioner before they entered the petitioner's room.

18. Finally, with respect to Ms. Tyagi's submissions to the extent of the absence of any allegations of penetration, notwithstanding which, charges have been levelled under Section 376AB of the IPC and Section 6 of the POCSO Act, these are arguments that she is at liberty to press at the appropriate stage.

19. For the aforesaid reasons, this Court does not deem it appropriate to enlarge the petitioner on bail in connection with the subject FIR at this stage.

20. It is made clear that no observations made hereinabove constitute a finding on the merits of the case of the petitioner, and that his trial shall be conducted without any prejudice that may arise therefrom.

21. The present petition, along with pending applications, if any, are dismissed.

AJAY DIGPAUL, J.

NOVEMBER 13, 2025/Sk/av