



2026:DHC:427



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

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Date of Decision: 17.01.2026+ **BAIL APPLN. 2729/2025**

ROHIT

.....Petitioner

Through: Mr. Raja Panda, Advocate (*through videoconferencing*).

versus

STATE NCT OF DELHI AND ANR.

.....Respondents

Through: Mr. Nawal Kishore Jha, APP for State with IO/SI Manisha.
Ms. Dakshaja Upadhyaya, Advocate for victim/prosecutrix**CORAM: JUSTICE GIRISH KATHPALIA****J U D G M E N T (ORAL)**

1. The accused/applicant seeks regular bail in case FIR No.547/2023 of PS Maidan Garhi for offence under Section 323/376 IPC and Section 6 POCSO Act.

2. I have heard learned counsel for accused/applicant as well as learned prosecutor assisted by Investigating Officer/SI Manisha. I have also heard learned counsel for prosecutrix.

3. Broadly speaking, the prosecution case is as follows. On 03.11.2023 at about 04:00pm, when the prosecutrix aged about seven years was alone at

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KATHPALIA

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home as her mother had gone for work, the present accused/applicant, who was aged 19 years came to her home. The accused/applicant is cousin of the prosecutrix, being her father's sister's son. The accused/applicant committed anal intercourse forcibly with the prosecutrix and when she shouted, he left after telling her to take bath. When her mother returned home, the prosecutrix apprised her of the incident and on the same day, FIR was registered.

4. Learned counsel for accused/applicant submits that the accused/applicant is in judicial custody since 03.11.2023 and cannot be kept in jail endlessly. It is also contended that the forensic report of FSL favours the accused/applicant, since the DNA of accused/applicant could not be detected on the clothes of the prosecutrix. It is also contended that sister of the accused/applicant also lodged a complaint against father of the prosecutrix and the same was registered as FIR No. 549/2023 for offences under Section 354/506 IPC and Section 10 POCSO Act on 04.11.2023. Learned counsel for accused/applicant also contends that father of the prosecutrix is a bad character of the area.

5. On the other hand, learned APP for State and learned counsel for the prosecutrix strongly oppose the bail application, contending that parents of the prosecutrix are yet to be examined by the trial court and grant of bail to the accused/applicant would lead to their being pressurized by him. In this regard, learned counsel for prosecutrix has taken me through ordersheets of the learned trial court annexed as Annexure-P7 (Colly) reflecting the serious



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concern of parents of the prosecutrix who apprehend harm at his hands; even as regards delay in recording testimony of the prosecutrix, learned counsel for prosecutrix has taken me through records to show that she was under threat from family of the accused/applicant and the learned trial court even initiated the process as regards victim protection.

6. As regards FIR No. 549/2023, registered on the complaint of sister of the accused/applicant, as mentioned above, the same was registered subsequent to the FIR No. 547/2023 after the arrest of the accused/applicant. Further, even in FIR No. 549/2023, the release of father of the prosecutrix on bail does not give parity to the present accused/applicant, because in the said case there was no allegation of any penetrative assault. Moreover, the agony undergone by the female child of seven years cannot be allowed to be bartered by an act allegedly done by her father with someone else.

7. As regards the corroborative evidence, according to the prosecution case, after committing forcible anal intercourse, it is the accused/applicant who made the prosecutrix take bath, which could be the reason as regards FSL failure to detect DNA on her clothes. Rather, the medical documents of the prosecutrix who was examined by senior resident AIIMS reflect two tear injuries over posterior of anal region. Not only this, in her testimony as PW-1, the prosecutrix has supported the prosecution case.

8. As mentioned above, parents of the prosecutrix are yet to be examined and the material on trial court record reflects reasonable apprehension in

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their mind that if released on bail, the accused/applicant would harm them.

9. Considering the overall circumstances described above, I do not find it a fit stage to release the accused/applicant on bail. Therefore, the bail application is dismissed.

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**GIRISH KATHPALIA
(JUDGE)**

JANUARY 17, 2026

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