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

Date of decision: 29.10.2026

\# **CNR No. DLHC010501842026**

\+ W.P.(CRL) 3288/2026

RAJ KUMAR .....Petitioner

Through: Mr.Hritik Kashyap & Ms.Suruchi, Advs.

versus

STATE (NCT OF DELHI) .....Respondent

Through: Mr.Sanjay Lao, Sr. Adv. & Mr.Aman Usman, APP with Mr.Abhinav Kumar & Mr.Aryan Sachdeva, Advs. along with WSI Ragini & WSI Umang, PS Wazirabad.

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA
HON'BLE MR. JUSTICE ARUN BHARDWAJ

NAVIN CHAWLA, J. (ORAL)

1. This petition has been filed under Article 226 of the Constitution of India read with Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter referred to as the 'BNSS'), praying for issuance of a Writ in the nature of Habeas Corpus, declaring the petitioner's arrest on 20.04.2026 in relation to FIR No.168/2026 dated 19.04.2026, under Sections 76/123 of the BNSS and Section 10 of the Protection of Children from Sexual Offences Act, 2012, registered at Police Station Wazirabad, to be unconstitutional and in violation of Section 36(b)(i) and Section 48 of

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the BNSS, and directing the respondent to release the petitioner from custody.

2. It is the case of the petitioner that the petitioner was arrested in relation to the above FIR from Village Pokhara, Kotwa, Bihar on 20.04.2026, between 05:30 PM and 06:00 PM. His arrest memo, however, falsely records the time of his arrest as 08:30 PM.

3. The learned counsel for the petitioner submits that, in violation of Section 36(b)(i) of the BNSS, the arrest memo of the petitioner does not bear the signatures of any family member of the petitioner or of any respectable member of the locality, who, admittedly, were present at the time of arrest.

4. Placing reliance on Section 48 of the BNSS, he submits that even the information regarding his arrest was not communicated to any of his family members in writing. He further submits that Section 62 of the BNSS mandates that an arrest shall be made only in accordance with the provisions of the BNSS. As the same have not been complied with in the present case, the arrest of the petitioner is illegal.

5. He submits that it was the duty of the learned Magistrate, at the time of remand, to consider and satisfy himself of compliance with the provisions of the BNSS in relation to the arrest, which has not been done in the present case.

6. On the other hand, Mr. Lao, learned Senior Counsel appearing for the respondent, submits that the arrest of the petitioner was made after following the due procedure prescribed by law. He submits that the petitioner has been accused of having committed sexual assault on

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a minor girl by intoxicating her, aged around 15 years. It was, on the basis of CCTV footages, that the petitioner was identified and later located in Bihar. A police team was then sent to Bihar, which approached the concerned Police Station in Bihar for seeking assistance, at about 05:45 PM. The assistance was granted only at about 07:00 PM, whereafter the team proceeded to the venue from where the petitioner was apprehended at 08:30 PM. The arrest memo of the petitioner was drawn, and information regarding the same was communicated to the family members of the petitioner. The family members of the petitioner were also requested to sign the arrest memo, however, as they refused, the arrest memo was attested by the police officials accompanying the IO at the time of arrest. He submits that even the name of the petitioner's sister, the name of her husband, and her phone number was duly recorded in the arrest memo. He submits that, therefore, the procedures prescribed in the BNSS for arrest were duly followed.

7. He further submits that the learned Magistrate was also satisfied on the above, while remanding the petitioner to police custody by the order dated 21.04.2026. The bail application filed by the petitioner was subsequently dismissed by the learned Special Judge *vide* order dated 24.09.2026.

8. He submits that the petitioner has, in fact, now filed an application seeking bail before this Court, being Bail Application No. 4452/2026, which is pending adjudication before the learned Single Judge of this Court and is listed on 01.12.2026.

9. We have considered the submissions made by the learned

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counsels for the parties.

10. As far as the time of petitioner's arrest is concerned, having perused the documents filed along with the charge sheet, we are *prima facie* satisfied that the arrest of the petitioner could have taken place only after 07:00 PM, when, on a request by the Delhi Police, assistance was granted by the local police for the arrest of the petitioner and the police party left the police station. The submission of the petitioner that he was arrested between 05:30 PM and 06:00 PM on 20.04.2026, therefore, does not *prima facie* appear to be correct.

11. As far as information to the family members regarding the arrest is concerned, the arrest memo itself records the name of the sister of the petitioner, the name of her husband, as also her mobile number. This information could have been available with the IO only if the sister was personally present at the spot. In fact, it is the own case of the petitioner that, at the time of arrest, he was attending a wedding function and was surrounded by his own family members. It is, therefore, *prima facie* inconceivable to even suggest that the family members of the petitioner were not aware or not informed of his arrest. These pleas appear to be taken only to somehow scuttle the regular process for obtaining bail.

12. The learned Magistrate as well as the learned Special Judge have also examined these pleas of the petitioner and have rejected the same. Instead of challenging this order, the petitioner has approached this Court under Article 226 of the Constitution of India.

13. Given the limited scope of inquiry that can be conducted in such extraordinary discretionary jurisdiction on the basis of the

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affidavits of the parties, we are not inclined to accept the above submissions of the learned counsel for the petitioner.

14. Being guided by the judgment of the Supreme Cout in ***State of Karnataka v. Sri Darshan etc.,*** 2025 INSC 979, we are of the opinion that no material has been placed on record to establish that any prejudice was caused to the petitioner due to the alleged procedural lapse.

15. We, accordingly, find no merit in the present petition. The same is dismissed.

16. There shall be no order as to costs.

NAVIN CHAWLA, J

ARUN BHARDWAJ, J

OCTOBER 29, 2026/*rv/Yg*

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