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IN THE HIGH COURT OF DELHI AT NEW DELHI
BAIL APPLN. 3350/2025

Order reserved on: 27.01.2026
Order delivered on: 09.02.2026

SIVAM ALIAS KAKUPetitioner
Through: Mr. Samrat Nigam, Sr. Advocate with
Mr. Kunal Mittal, Ms. Arpita Rawat,
Ms. Rishika, Ms. Jyoti Tiwari,
Advocates.
versus

STATE OF NCT OF DELHIRespondent
Through: Mr. Shoaib Haider, APP for the State.
SI Madhu Bala, P.S.: Lajpat Nagar.
Mr. Nitin Kumar and Ms. Maheep
Kaur, Advocates for prosecutrix.

CORAM:
HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI
ORDER
09.02.2026

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By way of the present petition filed under section 483 read with section 528 of the Bharatiya Nagarik Suraksha Sanhita 2023, the petitioner seeks regular bail in case FIR No.390/2024 dated 11.11.2024 registered under sections 64(1)/70(1) of the Bharatiya Nyaya Sanhita, 2023 ('BNS') and section 4 of the Protection of Children from Sexual Offences Act, 2012 ('POCSO') at P.S.: Lajpat Nagar, New Delhi. Consequent upon completion of investigation, offences under sections 35/3(5) of the BNS and section 8 of the POCSO have been added *vidé* chargesheet dated 07.01.2025.

2. Notice on this petition was issued on 01.09.2025.



3. Learned APP has placed reliance on status report dated 08.09.2025 filed in the connected matter, bearing BAIL APPLN. No.3349/2025, since the facts relating to the accused in the present case are almost identical to the ones in that case.
4. Nominal Roll dated 05.09.2025 has also been received from the Jail Superintendent.
5. Pursuant to order dated 27.01.2026, learned counsel for the petitioner had given a brief note of arguments dated 28.01.2026, which is taken on record.
6. Accused – **Sivam @ Kaku** – is alleged to have been one of the four accused persons who first met 02 prosecutrices (“R” and “S”) at the Underpass Club near Defence Colony flyover, Lajpat Nagar, New Delhi and was present at that location at the relevant time. He is also shown as having been in the car with the group which included the 02 prosecutrices when they drove from Lajpat Nagar to Gurugram and then back to a room near Lajpat Nagar, New Delhi.
7. It is the prosecution case, that the petitioner was present in the room/flat near Lajpat Nagar where the major prosecutrix “R” was taken after the drive; and he is alleged to have committed rape upon “R” in that room.
8. In the course of trial, prosecutrix “R”, who is major, is stated to have identified only Sivam @ Kaku and co-accused Ashish as the persons who raped her in turns, which, it is argued, is at variance with her earlier version as recorded in the FIR and in her statement recorded under section 183 of the BNSS, where she had alleged rape by four persons in succession.



9. Upon hearing Mr. Samrat Nigam, learned senior counsel appearing for the petitioner and Mr. Haider, learned APP; and after perusing depositions dated 07.11.2025, 19.09.2025, and 15.01.2026 of prosecutrix “R”, what weighs with the court *at this stage* is the following:

- 9.1. That prosecutrix – “R” is a major. She is stated to have accompanied four accused persons alongwith her niece viz., prosecutrix “S”, who (latter) has deposed *vidé* statement dated 06.01.2026 before the learned trial court that both of them accompanied the four accused persons in their car, and they roamed around the colony, and thereafter, went to Gurugram; and returned to the flat of one of the persons near Lajpat Nagar, where “R” stayed back with four accused persons, while “S” left in the car with Aman.
- 9.2. That in the course of her deposition dated 19.09.2025 recorded before the learned trial court, prosecutrix “R” has identified the petitioner as one of the accused persons who stayed back and committed the alleged offence upon her. Though the prosecutrix has identified the petitioner in her court deposition, learned senior counsel has argued that her deposition is rife with contradictions *vis-à-vis* her statement recorded under section 183 of the BNSS.
- 9.3. That there is a police picket right next to the residence of the prosecutrix “R”; and yet she did not make any complaint at the police picket nor did she lodge the FIR at her own instance.



- 9.4. That, as in the case of the other prosecutrix “S”, a complaint came to be filed in respect of both prosecutrices by the attending doctor, when prosecutrix “R” went for medical examination complaining of abdominal pain.
10. On 27.01.2026, prosecutrix “R” was present in court. The court had interacted with her. Upon being queried, she had confirmed that she has never been approached or threatened by the petitioner; that though she had given the statement before the learned trial court on 19.09.2025 of her own free will and volition, but she did not oppose the grant of bail to the petitioner.
11. A perusal of the petitioner’s nominal roll dated 05.09.2025 shows that he has been in custody for about 10 months as of 04.09.2025; that his jail conduct has been ‘satisfactory’; and he has no other criminal involvements.
12. Upon a conspectus of the facts and circumstances of the case, this court is inclined to allow the present petition, thereby granting to the petitioner – **Sivam @ Kaku s/o Raj Kumar** – *regular bail*, subject to the following conditions:
- 12.1. The petitioner shall furnish a personal bond in the sum of Rs. 20,000/- (Rs. Twenty Thousand Only) with 02 sureties in the like amount from family members, to the satisfaction of the learned trial court;
- 12.2. The petitioner shall furnish to the Investigating Officer a cellphone number on which the petitioner may be contacted at any time and shall ensure that the number is kept active and switched-on at all times;



- 12.3. If the petitioner has a passport, he shall surrender the same to the learned trial court and shall not travel out of the country without prior permission of the learned trial court;
- 12.4. The petitioner shall not contact, nor visit, nor offer any inducement, threat or promise to any of the prosecution witnesses or other persons acquainted with the facts of case. The petitioner shall not tamper with evidence nor otherwise indulge in any act or omission that is unlawful or that would prejudice the proceedings in the pending trial; and
- 12.5. In case of any change in his residential address/contact details, the petitioner shall promptly inform the I.O. in writing.
13. Since the petitioner is facing trial and would therefore be appearing before the learned trial court from time-to-time, it is not considered necessary to impose a reporting requirement as a condition of regular bail.
14. The petition is disposed-of in the above terms.
15. Pending applications, if any, also stand disposed-of.

ANUP JAIRAM BHAMBHANI, J.

FEBRUARY 09, 2026

V.Rawat