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

+ BAIL APPLN. 3626/2025
PRAKASH KOTHARI

.....Petitioner

Through: Mr. Prafulla, Mr. Sanjay Soni, Mr.
Kuldeep Singh, Advocates.

versus

STATE (NCT OF DELHI) & ANR.

.....Respondents

Through: Mr. Ajay Vikram Singh, APP. SI
Sudhir, PS-Mangolpuri.
Ms. Sakshi Jayant, Advocate for
complainant.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

% **20.02.2026**

1. The present applicant seeks regular bail in connection with FIR No. 998/2024 dated 05.10.2024 registered at Police Station Mangolpuri, for offences punishable under Section 64(1) of the Bharatiya Nyaya Sanhita, 2023 and Section 4 of the Protection of Children from Sexual Offences Act, 2012 ["POCSO"].
2. The allegation against the applicant is that on 04.10.2024, he committed rape upon the 15-year-old, intellectually impaired, daughter of his neighbour.
3. The FIR records that a PCR call was received on 04.10.2024, alleging rape of the prosecutrix by her neighbour [applicant herein]. Pursuant thereto, the prosecutrix was medically examined and her statement under Section 164 of the Code of Criminal Procedure, 1973 ["CrPC"] was recorded. The statement of the prosecutrix's mother under Section 164 CrPC was also recorded.



4. As per the status report dated 03.12.2025 filed by the prosecution, the Forensic Science Laboratory [“FSL”] team inspected the scene of crime and conducted photography and videography. An exhibit containing a suspected stain, being a cut piece of a blanket, was seized and collected by the FSL for forensic examination. The undergarment of the prosecutrix was also seized and forwarded to the FSL for examination.
5. The applicant was arrested on 05.10.2024 at the instance of the complainant. Thereafter, his medical examination was conducted, and his blood sample was collected. His undergarment was seized and, along with the blood sample, sent to the FSL for forensic examination.
6. Mr. Prafulla, learned counsel for the applicant, submits that the offences of rape and aggravated penetrative sexual assault are not made out, inasmuch as the MLC of the prosecutrix does not record any hymen injury. He further draws my attention to the statement of the prosecutrix, wherein she stated that the aforesaid blanket was used by her father. However, as per the FSL report, only the DNA profile of the applicant was detected on the cut piece of the blanket examined by the FSL.
7. Mr. Praffula further submits that both the prosecutrix and her mother have already been examined. He also points out that as many as 20 witnesses have been cited in the chargesheet, and therefore, the trial is likely to take considerable time.
8. Mr. Ajay Vikram Singh, learned Additional Public Prosecutor, and Ms. Sakshi Jayant, learned counsel for the prosecutrix, on the other hand, oppose the application. They draw my attention to the gravity and seriousness of the allegations against the applicant. They submit that the



version of the prosecutrix has remained consistent throughout – in her initial history as recorded in the MLC, in her statement under Section 164 CrPC recorded before the learned Magistrate, and in her testimony before the Trial Court.

9. It is further submitted that the prosecution case stands corroborated by the FSL report, which indicates that the stains detected on the cut piece of the blanket and on the undergarments of the prosecutrix match the DNA profile of the applicant. Mr. Singh and Ms. Jayant also contend that the absence of visible physical injury in the MLC is not determinative in cases alleging penetrative sexual assault, and that, in any event, the MLC does not record any definitive finding regarding the condition of the hymen.

10. Having heard learned counsel for the parties and perused the material placed on record, I am of the view that, in the facts and circumstances of the present case, it is not appropriate to release the applicant on regular bail in connection with the aforesaid FIR, for the reasons set out hereinafter:

- a) The allegations against the applicant are grave in nature. He is accused of having committed a penetrative sexual assault upon a vulnerable 15-year-old girl, who is stated to be intellectually impaired. On 17.03.2025, a supplementary chargesheet was filed before the learned Trial Court, enclosing the IQ/SQ Assessment Report of prosecutrix from Institute of Human Behaviour and Allied Sciences [“IHBAS”], which assessed her as having 75% intellectual disability.
- b) The version of the prosecutrix, as recorded in the MLC, has been



consistently maintained by her, both in her statement under Section 164 CrPC and in her deposition before the Court. Her testimony includes specific allegations of penile penetration, as well as assertions that the applicant extended threats to her with a knife.

- c) The FSL report, *prima facie*, lends corroboration to the prosecution case. The conclusions recorded therein indicate that the DNA profile obtained from the applicant's blood sample matches the biological stains detected on the blanket seized from the scene of crime, as well as on the undergarments of the prosecutrix.
- d) The contention of the applicant that the blanket ought to have revealed the presence of other DNA profiles, in view of the testimony that it was used by the prosecutrix's father, is a matter to be tested during trial. It is not within the scope of bail proceedings for this Court to undertake a mini-trial or to evaluate the evidentiary worth of such contentions in detail. In any event, the said contention does not materially advance the applicant's case, particularly in light of the fact that his DNA profile was also detected on the undergarments of the prosecutrix.
- e) I am not impressed by the alleged discrepancy sought to be pointed out between the MLC and the aforesaid allegations, at this stage. This is a matter that falls for consideration at trial. Suffice it to observe that the mere absence of physical injury does not, by itself, preclude a conviction for rape/penetrative sexual assault. In any event, I do not find any categorical observation in the MLC as to whether the hymen of the prosecutrix was intact.
- f) The present case is also not one where the applicant has undergone



incarceration for an unduly long period. The nominal roll reflects that he was arrested on 05.10.2024, and has thus been in custody for a period of just over 1 year and 4 months.

g) The trial is already in progress. Out of the 20 witnesses cited in the chargesheet, Mr. Singh submits that 7 have been dropped and 2 have already been examined. At least one material public witness, namely the father of the prosecutrix, remains to be examined. In these circumstances, it would be inappropriate to release the applicant on bail at this stage.

11. For the aforesaid reasons, I find no merit in the present application. The same is accordingly dismissed.

12. At this stage, Mr. Prafulla, learned counsel for the applicant, submits that the trial may be expedited, having regard to Section 35 of POCSO. As noted hereinabove, the trial is already in progress. Nevertheless, the applicant shall be at liberty to move an appropriate application before the learned Trial Court seeking expeditious disposal. In the event such a request is made, the learned Trial Court may consider the same in accordance with the position of its Board and the age and pendency of the matters listed before it.

13. Needless to say, it is clarified that any observations made in the present order are solely for the purpose of deciding the present bail application and shall not influence the trial proceedings, nor shall they be construed as an expression of opinion on the merits of the case.

PRATEEK JALAN, J

FEBRUARY 20, 2026/‘Bhupi’/SD/