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

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Date of Decision: 11.03.2026

+ **BAIL APPLN. 4049/2024**

RAKESH KUMAR

.....Petitioner

Through: Mr. Sunil Rai, Advocate.

versus

STATE (GOVT OF NCT OF DELHI)

.....Respondent

Through: Mr. Nawal Kishore Jha and Mr. Sanjeev Sabharwal, APP for State with SI Shrishti.

CORAM: JUSTICE GIRISH KATHPALIA

J U D G M E N T (ORAL)

1. The accused/applicant seeks regular bail in case FIR No. 164/2024 of PS Subhash Place for offence under Section 370/370A/376 IPC and 6/21 POCSO Act.

2. Despite last order, which repeated the earlier directions, the prosecutrix and/or her counsel have not appeared in person or even through videoconferencing. On last date, it was made clear by the predecessor bench that if the prosecutrix does not appear today and is not represented, the bail application would be taken up for hearing in her absence. As per record, for

BAIL APPLN. 4049/2024

Page 1 of 4 pages



2026:DHC:2016



the first time this bail application was heard by the predecessor bench on 07.11.2024 and thereafter, the matter remained pending before different benches and was finally transferred to this bench along with 179 such old pending bail applications. Today is the first hearing before this bench.

3. The IO/SI Shrishti submits that she has repeatedly informed the prosecutrix about hearing of this bail application but now the prosecutrix is not even taking her calls. It appears that the prosecutrix does not want to oppose this bail application.

4. Broadly speaking, prosecution case is as follows. On 12.02.2024, SI Divya Yadav of PS Nihal Vihar reported before PS Subhash Place along with the prosecutrix and the accused/applicant, reporting that the accused/applicant had kept the prosecutrix at his house and raped her for 15-20 days. The accused/applicant was arrested. The prosecutrix stated that she had come to Delhi with her mother 04 months back in search of job and a lady named Minoti had assured to get her placed in some office shortly. After which, she was employed in the house of the accused/applicant as domestic help. But the prosecutrix aged about 16-18 years as per ossification report refused to get herself medically examined.

5. On behalf of accused/applicant, it is contended that he has been falsely implicated in this case and that the prosecutrix in her testimony did not support prosecution case.

BAIL APPLN. 4049/2024

Page 2 of 4 pages

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6. On behalf of State, the learned APP Mr. Jha submits that he received the file only day before yesterday and is unable to assist. However, another learned APP Mr. Sanjeev Sabharwal submits that he is aware about the matter and can assist. Learned APP Mr. Sabharwal submits that the IO has not brought complete records, so he is unable to show testimony, but he fairly admits that the prosecutrix did not support prosecution case.

7. In nutshell, the investigation machinery commenced on action of one Sub Inspector (*as per paragraph 2 of status report dated 10.12.2024*), which is quite unusual; the prosecutrix did not support prosecution case; the prosecutrix refused to get herself medically examined; the prosecutrix has not been appearing even before this court for past more than one and a half years to oppose this bail application.

8. Considering the above circumstances, I find no reason to further deprive the accused/applicant liberty. Therefore, the bail application is allowed and accused/applicant is directed to be released on bail subject to his furnishing a personal bond in the sum of Rs.10,000/- with one surety in the like amount to the satisfaction of the Trial Court.

9. A copy of this order be immediately transmitted to the concerned Jail Superintendent for informing the accused/applicant.

10. At this stage, learned APP Mr. Sabharwal submits that the accused/applicant is involved in two more cases, including a case under

BAIL APPLN. 4049/2024

Page 3 of 4 pages

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Child Labour Act. In response, learned counsel for accused/applicant submits that he is already on bail in those cases.

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**GIRISH KATHPALIA
(JUDGE)**

MARCH 11, 2026/ry