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

+ **BAIL APPLN. 4193/2025**

SUMIT

.....Petitioner

Through: Mr. Jitendra Kumar Singh,
Mr. Virender Verma, Mr. Manish
Kumar, and Ms. Priya Kumari,
Advocates.

versus

THE STATE GOVT. OF NCT OF DELHIRespondent

Through: Mr. Yudhvair Singh Chauhan, APP
for State.
W/SI Priyanka, P.S. S.P. Badli.
Mr. Sarthak Karol, Standing
Counsel (DHCLSC) with Ms.
Neelakshi Bhaduria and Mr.
Shashank Sharma, Advocates. for
the prosecutrix.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

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20.03.2026

1. The petitioner seeks regular bail in connection with FIR No.1149/2024 dated 03.12.2024, registered at Police Station Samaipur Badli, District Outer North, New Delhi, under Section 64(1) of the Bharatiya Nyaya Sanhita, 2023 ["BNS"], read with Section 6 of the Protection of Children from Sexual Offences Act, 2012 ["POCSO Act"].
2. I have heard Mr. Jitendra Kumar Singh, learned counsel for the petitioner, Mr. Yudhvair Singh Chauhan, learned Additional Public



Prosecutor, and Mr. Sarthak Karol, learned Standing Counsel for the Delhi High Court Legal Services Committee, who has advanced arguments on behalf of the prosecutrix.

3. The prosecution has also placed on record a status report.

4. The allegation of the prosecutrix, as emerging from the subject FIR, is that approximately three months prior to the registration of the FIR, a neighbour of hers, by the name of Tripti, took her to the market. On the way, Tripti's husband and a boy named '*Subhi*' [allegedly the petitioner herein], whom she did not know from before, met them. They took her to a garment factory. Tripti's husband brought a chowmein roll, which they ate, after which the prosecutrix started feeling sleepy. She fell asleep and woke up two hours later, when her head and private parts were paining. However, she did not know what had happened. They had left at about 6:00 PM, and the prosecutrix returned home at about 08:40 PM. She used to meet Tripti and '*Subhi*' sometimes, but no wrong incident occurred with her thereafter. It is stated that, one month prior to the registration of the FIR, the prosecutrix experienced a stomach ache, upon which she was taken to the hospital on 03.12.2024, and it was determined that she was pregnant. It is alleged in the FIR that '*Subhi*' had committed a wrong act with her, as a result of which she fell ill and became pregnant.

5. After registration of the FIR, the statement of the prosecutrix was also recorded under Section 183 of the Bharatiya Nagarik Suraksha Sanhita, 2023 ["BNSS"], in which she broadly reiterated the aforesaid incident, but stated that she did not know who had caused her pregnancy.

6. Mr. Singh submits that the allegations against the petitioner is not



made out in the facts of the present case. He draws my attention to a report of the Forensic Science Laboratory [“FSL”], with regard to the DNA match between the prosecutrix’s newborn baby and the petitioner. It is stated therein that the petitioner is not the biological father of the newborn baby. On this basis, Mr. Singh contends that the presumption under Section 29 of the POCSO Act, stands discharged, as far as the petitioner is concerned.

7. Mr. Chauhan and Mr. Karol, on the other hand, submit that the allegations concern a grave offence against a 14 year old girl, and that the Court should be slow in granting bail. Mr. Chauhan points out that the prosecutrix is yet to be examined. Mr. Karol further submits that the DNA test, at best, negates the paternity of the petitioner, but does not rule out the possibility of any other sexual act having taken place.

8. The offence under the POCSO Act is undoubtedly grave, and the Court is generally circumspect in considering an application for bail in cases involving such offences. However, even in serious and grave offences, the Court is duty bound to examine the *prima facie* material on record, and determine whether the continued incarceration of the accused can be justified on the basis of that material.

9. In the present case, the *prima facie* material is such that, in my view, the liberty of the petitioner ought not to be curtailed further. It may be noted that the contents of the FIR specifically state that there was only one incident of sexual assault upon the prosecutrix. Although the petitioner is named in the FIR, the allegation of the prosecutrix is that she was asleep at the time of the incident. Further, her statement under Section 183 of the BNSS does not support this aspect of the matter, as she



specifically stated that she did not know who committed the sexual act on her, leading to her conception.

10. In view of this background, the FSL report is, in my view, of significance. The sample of the prosecutrix [Exhibit “A-1”] of the newborn baby of the prosecutrix [Exhibit “A-2”], and of the petitioner [Exhibit “4”], were sent to the FSL, and the conclusions were recorded as follows:

“RESULT OF DNA ANALYSIS

1. One set of alleles generated from the source of exhibit “A-1” (Blood sample of victim) of case SFSL DUH/02739/BIO/A00504/25 is accounted in the alleles generated from the source of exhibit “A-2” (Blood sample of victim’s new born baby) of case SFSL DLH/02739/BIO/A00504/25.
2. One set of alleles generated from the source of exhibit “4” (Blood sample of accused Sumit) is **not accounted** in the alleles generated from the source of exhibit “A-2” (Blood sample of victim’s new born baby) of case SFSL DLH/02739/BIO/A00504/25.

CONCLUSION

DNA (STR) analysis performed on exhibits “4” is sufficient to conclude that

1. DNA profile generated from the source of exhibit “A-1” (Blood sample of victim) of case SFSL DLH/02739/BIO/A00504/25 is **Biological Mother** of DNA profile generated from the source of exhibit “A-2” (Blood sample of victim’s new born baby) of case SFSLDLH/02739/810/400504/25.
2. **DNA profile generated from the source of exhibits ‘4’ (Blood sample of accused Sumit) is not Biological Father of DNA profile generated from the source of exhibit “A-2” (Blood sample of victim’s new born baby) of case SFSL DLH/02739/BIO/A00504/25.”**¹

11. While each case of this nature must turn on its own facts, Mr. Singh has drawn my attention to an order dated 24.08.2020 of the Supreme Court in Criminal Appeal No. 537/2020², which also involves a

¹ Emphasis supplied.

² *Jayanta Chatterjee v. The State of West Bengal.*



POCSO offence³. The order of the Supreme Court reads as follows:

“Leave granted.

We have heard learned counsel for the parties.

The respondent-State submits that they have filed an affidavit on 21st August, 2020, including the DNA report but the same is not on record. The same be placed on record.

Learned senior counsel for the appellant has a copy of the same and both the learned counsel are ad-idem on the fact that the DNA report does not show that the appellant is a father of the child born.

In view of the aforesaid, we have no hesitation in saying that the appellant should be enlarged on bail on the terms and conditions to the satisfaction of the Trial Court.

Learned senior counsel for the appellant further submits that it is out of a landlord-tenant dispute that a false case has been filed and that he should be given appropriate compensation.

If that be the position, it is for the appellant to take necessary steps in this behalf in accordance with law claiming compensation in accordance with law.

*The appeal is disposed of.”*⁴

12. As per the Nominal Roll dated 01.12.2025, the petitioner has remained in custody since 18.03.2025. The supplementary chargesheet has been filed, and the prosecution has cited 15 witnesses. Mr. Chauhan confirms that the petitioner does not have any other criminal involvements.

13. Having regard to the aforesaid, it is directed that the petitioner be released on regular bail in connection with FIR No.1149/2024 dated 03.12.2024, registered at Police Station Samaipur Badli, District Outer North, New Delhi, under Section 64(1) of the BNS, read with Section 6 of the POCSO Act, subject to furnishing a bail bond in the sum of Rs. 30,000/-, with one surety of the like amount, to the satisfaction of the

³ This is evident from the order of the Calcutta High Court dated 05.06.2020 in CRM No. 4094/2002, which was challenged before the Supreme Court.

⁴ Emphasis supplied.



concerned Trial Court/Duty Magistrate, and further subject to the following conditions:

- a. The petitioner shall appear before the concerned Trial Court on each and every date of hearing fixed.
- b. If the petitioner has a passport, he shall surrender the same to the concerned Trial Court, and shall not leave the country without the prior permission of the concerned Trial Court.
- c. The petitioner shall ordinarily reside at the address as per prison records, and shall not change the address without informing the concerned Investigating Officer [“IO”]/ Station House Officer [“SHO”].
- d. The petitioner shall furnish his mobile number to the concerned IO/SHO, and shall ensure that the said mobile number remains operational and switched on at all times. The mobile number shall not be changed, nor shall the phone be switched off, without prior intimation to the IO/SHO.
- e. 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 the case. It is made clear that any attempt to influence the prosecutrix or any member of her family may result in cancellation of the concession of bail granted by the Court.
- f. 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.



- g. The petitioner shall not commit any offence during the pendency of the proceedings.
14. The application stands disposed of in the above terms.
15. It is clarified that the observations made herein are solely for the purpose of adjudication of the present bail application, and shall not be construed as an expression of opinion on the merits of the case, nor shall they prejudice the rights and contentions of the parties at any stage of the proceedings.
16. A copy of this order be sent to the concerned Jail Superintendent for information and necessary compliance.

PRATEEK JALAN, J

MARCH 20, 2026

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