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

+ **BAIL APPLN. 4250/2025**

SUNNY @ SACHIN

.....Petitioner

Through: Mr. Abhishek Gautam with Mr. Jagjit Nandal and Mr. Vikas Ahlawat, Advocates.

versus

STATE OF NCT OF DELHI

.....Respondent

Through: Mr. Shoaib Haider, APP for the State. SI Sompal Bishnoi, P.S.: Mayapuri. Mr. Ajay Verma with Ms. Sneha Sejwal, Ms. Smriti S. Nair, Advocates for the complainant.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

20.04.2026

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By way of the present petition filed under section 528 of the Bharatiya Nagarik Suraksha Sanhita 2023 ('BNSS'), the petitioner seeks regular bail in case FIR No. 470/2021 dated 14.11.2021 registered under section 363 of the Indian Penal Code, 1860 ('IPC') at P.S.: Mayapuri, West District, Delhi. Consequent upon completion of investigation, allegations of offences under sections 376(2)(N)/376D of the IPC and section 6 of the Protection of Children from Sexual Offences Act, 2012 ('POCSO Act') have been added *vidé* chargesheet dated 19.01.2022.

2. At the time of the offence, the prosecutrix was about 17 years and 11 months of age whereas the petitioner was about 26/27 years old.
3. Mr. Abhishek Gautam, learned counsel for the petitioner has raised essentially one contention, namely, that trial *qua* the petitioner is



complete and matter is at the stage of final arguments. However in the meantime, co-accused Arun, who had been absconding so far, has been arrested and his trial is pending at the stage of prosecution evidence.

4. In this backdrop, learned counsel for the petitioner points-out, that *vide* order dated 07.08.2025, the learned Additional Sessions Judge has observed that to avoid any prejudice to any of the parties, the matter shall be decided and disposed-of *qua* both accused persons *together*.
5. Learned counsel submits, that in the meantime the petitioner has already suffered judicial custody of more than 04 years as an under trial; and even though his trial is complete, the learned trial court has rejected his bail plea stating that he should remain in custody *till completion of trial of the co-accused*.
6. Mr. Gautam argues, that keeping the petitioner in judicial custody, despite trial against him being complete *only* because the co-accused, who was earlier absconding, is now facing trial, would amount to violation of the petitioner's right to speedy trial granted under Article 21 of the Constitution of India.
7. On the other hand, Mr. Shoaib Haider, learned APP appearing for the State and Mr. Ajay Verma, learned counsel appearing for the prosecutrix submit, that the prosecutrix has been consistent in her statements recorded under sections 161 and 164 of the Code of Criminal Procedure 1973, as well as in her court deposition.
8. Learned counsel argue, that though the petitioner's case is that the physical relations between him and the prosecutrix were consensual, the consent of a minor is irrelevant; and the allegations in the matter



relate to offences under sections 376(2)(N)/376(D) of the IPC, namely of *gang rape of a minor* by the accused persons.

9. Furthermore, learned counsel also submit, that as has been held by this Bench in ***Sanjay Malik vs. State***¹, even if it is assumed that the prosecutrix consented to the company of the petitioner, consent to be in the company of a man does not imply consent for sexual intercourse with the man.
10. It is argued on behalf of the State and the prosecutrix, that even though trial against the petitioner may be complete, since trial of the co-accused Arun is going-on, the petitioner may attempt to influence or intimidate witnesses to give contradictory statements in the ongoing trial of the co-accused, which could prejudice the course of justice.
11. It is argued, that since the allegations pertain to the heinous offence of *gang rape of a minor*, the integrity of the trial must be preserved.
12. Further, the court is informed that the next date of hearing in the trial court is 02.05.2026; and if deemed appropriate, this court may direct the learned trial court to expedite the trial of the co-accused.
13. Considering the nature of the allegations, namely that of *gang rape of a minor*, regardless of the fact that the co-accused was absconding and is now facing trial, this court is inclined to accept the submission made on behalf of the State and the prosecutrix, that enlarging the petitioner on bail *at this stage* may prejudice the trial inasmuch as the petitioner may attempt to intimidate or suborn witnesses to create contradictions in

¹ (2023) 2 HCC (Del) 63, Para 20(6)



their statements during the trial of the co-accused, which would impact the decision of the allegations of gang rape even against the petitioner.

14. Above all, one of the offences with which the petitioner is charged, namely section 6 of the POCSO Act *i.e.*, aggravated penetrative sexual assault, is punishable with *at least 20 years* of imprisonment.
15. In the circumstances, this court is *not inclined* to allow the present bail petition, at least *at this stage*.
16. The petition is accordingly dismissed.
17. However, the petitioner shall be at liberty to file afresh for the same relief, at a subsequent stage, depending on the course of trial of the co-accused, if so advised, in accordance with law.
18. Furthermore, considering the circumstances of the case, the learned trial court is directed to expedite the trial of co-accused Arun and to complete it as soon as feasible.
19. Pending applications, if any, stand disposed-of.

ANUP JAIRAM BHAMBHANI, J

APRIL 20, 2026

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