



\$~104

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

+ **BAIL APPLN. 4956/2025**

MOHD MUBARAK

.....Petitioner

Through: Mr. Sumit Sharma, Mr. Narender and
Mr. Raju Thakur, Advocates

versus

STATE (NCT OF DELHI)

.....Respondent

Through: Mr. Naresh Kumar Chahar, APP for
the State.

CORAM:

HON'BLE DR. JUSTICE SWARANA KANTA SHARMA

ORDER

29.04.2026

%

1. The present application has been filed on behalf of the applicant seeking grant of regular bail in case arising out of FIR No. 553/2019, registered at Police Station Prem Nagar, Delhi, for commission of offence punishable under Section 376 of the Indian Penal Code, 1860 (hereafter 'IPC') and Section 4 of the Protection of Children from Sexual Offences Act, 2012 (hereafter 'POCSO Act').

2. Briefly stated, the case of the prosecution is that on 09.10.2019, a PCR call regarding sexual assault upon a girl was received at Police Station Prem Nagar. Thereafter, the prosecutrix, along with her parents, came to the police station, where a counsellor was called and her counselling was conducted in the presence of her parents. In her statement, the prosecutrix stated that as she had been unwell for several years, her family believed that



she was under the influence of some evil spirit and, therefore, they had started taking her to faith healers. On the advice of her father's friend, Rahman, her father had taken her to the present accused/applicant Mohd. Mubarak, who was stated to be a *Maulvi* residing in Mubarakpur, for treatment on 08.10.2019. She alleged that during the treatment, the accused had asked her strange and inappropriate questions and later visited her house in the evening, where he insisted on treating her alone. It was alleged that the accused told her that she was under the influence of a *jinn* and that it could only be removed through obscene acts, after which he asked her to remove her undergarments and committed sexual assault upon her. Out of fear, she did not disclose the incident immediately, but narrated the same to her mother the next morning, following which the police was informed. Thereafter, the prosecutrix was medically examined at SGM Hospital, Mangolpuri, and on the basis of her statement and medical examination, the present FIR for offence under Section 376 of the IPC and Section 4 of the POCSO Act was registered.

3. During investigation, the applicant herein was arrested, medically examined, and the relevant exhibits were seized and deposited in the *malkhana*. The statement of the prosecutrix under Section 164 of the Cr.P.C. was also recorded before the learned Magistrate, wherein she disclosed repeated sexual assault, pursuant to which Section 4 of the POCSO Act was substituted with Section 6 of the POCSO Act. The school records of the prosecutrix were obtained and her date of birth was found to be 24.11.2002. The exhibits were sent to FSL for DNA profiling and, after completion of investigation, the charge-sheet was filed before the learned Sessions Court, where the matter is presently pending trial.



4. The learned counsel appearing for the applicant submits that the applicant has been in judicial custody since 10.10.2019, i.e., for more than six years, which amounts to an infringement of his right to personal liberty and right to speedy trial. It is argued that the investigation in the present case stands complete, the charge-sheet has already been filed, and the material witnesses have been examined before the learned Sessions Court. Out of 18 prosecution witnesses, 12 witnesses have already been examined, including the prosecutrix (PW-1), her father (PW-2), and her mother (PW-3), who are the crucial witnesses in the matter. It is argued that the forensic reports have also been placed on record and, therefore, there is no possibility of tampering with evidence or influencing the witnesses. The learned counsel further contends that the testimony of the prosecutrix is unreliable and untrustworthy, and there are several discrepancies in the testimonies of the material witnesses, and the learned Sessions Court failed to properly appreciate these aspects while rejecting the applicant's prayer for bail.

5. The learned APP for the State opposes the present application and argues that the allegations against the applicant are grave and serious in nature, involving repeated sexual assault upon the prosecutrix, who was a minor at the relevant time. It is submitted that the applicant, posing himself as a Maulvi and faith healer, took advantage of the vulnerable condition of the prosecutrix and the blind faith of her family, who had approached him under the belief that she was under the influence of some evil spirit. Under the guise of spiritual treatment, the applicant allegedly isolated the prosecutrix and committed sexual assault upon her. It is argued that considering the nature and gravity of the allegations, no ground for grant of bail is made out, also in view of the fact that the trial is at fag end.



6. This Court has **heard** arguments addressed on behalf of the applicant as well as the State, and has perused the material on record.

7. In the present case, this Court notes that the prosecutrix had been suffering from poor health for several years and despite medical treatment, her condition was not improving. Her family, under the belief that she was under the influence of some evil spirit or *jinn*, had started approaching persons performing *jhad-phoonk* and faith healing. As alleged, on the advice of one of her father's friends, the prosecutrix was taken to the present applicant, who claimed himself to be a *Maulvi* and faith healer. Allegedly, when the prosecutrix was first taken to the applicant on 08.10.2019, he asked her strange and inappropriate questions while she was alone with him, due to which she felt uncomfortable and developed apprehension about his conduct. Thereafter, the applicant came to the house of the prosecutrix and stated that he had to treat her alone. He allegedly had sent the family members outside the room and told the prosecutrix that she was under the influence of a jinn and that such jinn could leave her body only through obscene acts, stating that the jinn itself was impure. On this false pretext, he handed over a bedsheet to her, asked her to remove her undergarments, and thereafter committed sexual assault upon her.

8. This Court is of the view that the material placed on record *prima facie* reflects that the applicant took undue advantage of the vulnerable physical and mental condition of the prosecutrix as well as the blind faith reposed in him by her family. The prosecutrix was a young girl suffering from illness, and both she and her family were made to believe that the applicant could cure her through spiritual treatment. Instead of providing any such help, the applicant allegedly misused that trust and exploited the



prosecutrix under the guise of treatment.

9. The statement of the prosecutrix recorded under Section 164 Cr.P.C. also supports the prosecution case. The prosecutrix, in her testimony recorded before the learned Trial Court also, has narrated in detail as to how she was sexually assaulted by the applicant herein.

10. The contention of the learned counsel for the applicant that there are discrepancies in the testimonies of the material witnesses and that the testimony of the prosecutrix is unreliable cannot be examined in detail at this stage. At the stage of consideration of bail, the evidence is not required to be minutely sifted or appreciated as would be done during trial. The credibility and reliability of witnesses, alleged contradictions in their statements, and the probative value of the prosecution evidence are matters to be tested during trial after full-fledged cross-examination [*Ref: State of Karnataka v. Sai Darshan: 2025 INSC 979*].

11. Further, the trial is already at an advanced stage and the prosecution evidence is nearing completion. The Hon'ble Supreme Court in *X v. State of Rajasthan: 2024 SCC OnLine SC 3539* has observed that ordinarily, in offences like rape, murder, dacoity, etc., once the trial commences and the prosecution starts examining the witnesses, the Courts should be loath in entertaining bail applications of the accused.

12. In view of the nature and gravity of the allegations, the material placed on record, and the stage of the trial, this Court does not find any ground for grant of bail to the applicant.

13. Accordingly, the present bail application is dismissed.

14. However, considering that the applicant has remained in custody for a considerable period, the learned Trial Court is requested to make all



endeavours to expedite the trial

15. The order be uploaded on the website forthwith.

DR. SWARANA KANTA SHARMA, J

APRIL 29, 2026/zp/TD