



2026:DHC:9373



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* IN THE HIGH COURT OF DELHI AT NEW DELHI

% Date of Decision: 16th October, 2026

CNR No. DLHC010304352026

+ BAIL APPLN. 2714/2026

SHYAM LAL YADAV

.....Petitioner

Through: Mr. Kshitij Gaur, Mr. Devanand Kumar, Mr. Shahid Raza, Mr. Sachidanand and Mr. Abhinav Gaur, Advs.

Mob: 8920506798

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versus

STATE NCT OF DELHI AND ANR.

.....Respondents

Through: Mr. Sunil Kumar Gautam, APP for the State.

(M): 9871349009

Email: sunil.skgautam@gmail.com

Ms. Anushkaa Arora, Standing Counsel, Delhi High Court Legal Services Authority ("DHCLSC"), along with Ms. Arushi and Ms.

Shruti, Advs. for Victim

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CORAM:**HON'BLE MS. JUSTICE MINI PUSHKARNA**



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MINI PUSHKARNA, J. (Oral):

1. The present petition has been filed on behalf of the applicant, namely, Mr. Shyam Lal Yadav, S/o Mr. Ram Dev Yadav, under Section 483 read with Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (“BNSS”), seeking regular bail in connection with the First Information Report (“FIR”) being *FIR No. 944/2025* dated 30th November, 2025, registered under Section 137(2) of the Bharatiya Nyaya Sanhita, 2023 (“BNS”), at Police Station (“PS”) Wazirabad, North, Delhi.
2. The case being *SC 211/2026* instituted in connection with *FIR No. 944/2025*, is pending adjudication before the Additional Sessions Judge FTSC (POSCO)-2, Central, Tis Hazari Court, Delhi, and is presently at the stage of prosecution evidence.
3. This Court has been informed that the petitioner had earlier moved an application before the Sessions Court seeking regular bail in respect of the present FIR. The said application came to be rejected by the Additional Sessions Judge FTSC (POSCO)-2, Central, Tis Hazari Court, Delhi, *vide* order dated 30th June, 2026.

Brief Facts

4. As per the material on record, the case set up by the prosecution is as follows:
 - 4.1 On 29th November, 2025, the complainant, i.e., the father, submitted a written complaint stating that his daughter, i.e., the victim, aged about 17 years and 6 months had been missing since 04:00 PM on that date. Premised on this statement of the complainant, *FIR No. 944/2025* came to be lodged.
 - 4.2 During the course of investigation, the victim was recovered on 13th January, 2026, from village *Nahar Singh, IMT Mansarovar, Haryana*, in the



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company of the petitioner herein. Thereafter, her medical examination was conducted.

4.3 The statement of the victim under Section 183 of BNSS came to be recorded, wherein, she stated that she had become acquainted with the petitioner sometime around May, 2024, through the social media platform – Instagram, after which they started talking regularly and met several times.

4.4 She further stated that on 29th November, 2025, she voluntarily went with the petitioner from *Kashmere Gate Metro Station to Bihar* and that they stayed together for about 20-25 days. She also stated that she made consensual physical relationship with the petitioner.

4.5 Subsequently, upon completion of the investigation, a Chargesheet came to be filed by the concerned Investigating Officer (“IO”) on 23rd February, 2026, under Sections 137(2)/64(2) of the BNS and Section 6 of the Protection of Children from Sexual Offences Act, 2012 (“POCSO Act”).

Submissions

5. Learned counsel appearing for the petitioner has made the following submissions:

5.1 There are no allegations against the petitioner regarding any forced physical relationship with the victim. The petitioner is merely 22 years of age and was in a consensual romantic relationship with the victim. This position is corroborated by the statement of the victim recorded under Section 183 of the BNSS, as it does not contain any allegation of a forced sexual relationship. Further, in the medical report, the victim has categorically referred to the petitioner as her boyfriend.

5.2 As on 29th November, 2025, the victim was approximately 17 years of age and the petitioner was around 22 years of age. Thus, the difference in



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age between the petitioner and the victim is not very huge.

5.3 If enlarged on bail, the petitioner undertakes not to abscond or tamper with the prosecution witnesses and to join the investigation, as and when required by the Police.

6. Rebutting the aforesaid, the following has been submitted on behalf of the victim:

6.1 The allegations against the petitioner concern offences of an extremely grave nature involving kidnapping and penetrative sexual assault upon a child, which carry severe punishment under law.

6.2 The victim has specifically stated in her statement under Section 183 of the BNSS that the petitioner herein had established physical relations with her, and the evidentiary value of the said statement as well as defence sought by the petitioner, are matters to be adjudicated during trial and not at the stage of bail.

6.3 The victim and her parents are primary prosecution witnesses and they are yet to be examined. Therefore, the possibility of the petitioner influencing or intimidating material witnesses, cannot be entirely ruled out.

6.4 The contention of the petitioner regarding consensual relationship, cannot at this stage, constitute a ground for grant of regular bail, particularly, when the victim was admittedly below 18 years of age at the relevant time.

6.5 The questions as to the nature of the relationship between the victim and the petitioner, the circumstances in which the victim left her residence and the condition in which she was subsequently traced along with the petitioner, are matters which are required to be appreciated on the basis of complete evidence before the Trial Court.

7. Learned Additional Public Prosecutor (“APP”) for the State submits



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that the allegations against the petitioner are grave and involve serious offences. Hence, release of the petitioner at this stage may adversely affect the fair conduct of the trial and may give rise to a possibility of influencing the witnesses or otherwise hampering the proceedings.

Analysis and Conclusion

8. I have heard learned counsels for the parties and have perused the material on record.

9. At the outset, this Court notes the statement of the victim recorded under Section 183 of the BNSS on 13th January, 2026, wherein, she has stated that she became friends with the petitioner through Instagram in 2024. Thereafter, they started meeting each other. Furthermore, it has been categorically stated that she went with the petitioner to Bihar on 29th November, 2025, out of her own choice and volition. The victim and the petitioner stayed together at the residence of the maternal grandmother (*nani*) of the petitioner for 20-25 days. She has also stated in clear terms that she had physical relations with the petitioner out of her own choice and without any force or coercion.

10. Additionally, this Court takes note of the fact that in the Medical Legal Report of the victim issued by the *Aruna Asaf Ali Government Hospital, Rajpur Road, Delhi*, on 13th January, 2026, she has described the petitioner as her boyfriend, wherein, it is explicitly recorded that there was history of 'sexual contact with boyfriend with consent'.

11. In line with the aforesaid, the Status Report filed on behalf of the State, stipulates as under:

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3. During further course of investigation, Statement U/s 183 BNSS of victim was also got recorded in which she corroborated her version of MLC and stated that She became acquainted with Shyam Lal through Instagram around May 2024. They started talking regularly and met several times. On 29.11.25, she voluntarily went with Shyam Lal from Kashmere Gate Metro Station to Bihar. They stayed together for about 20-25 days. She further stated that she made consensual physical relationship with accused. Further accused Shyamlal Yadav was arrested on 13.01.25 and after conducting Potency test, accused was sent to JC.

xxx xxx xxx”

12. In view of the above, it is manifest that the relationship between the petitioner and the victim is romantic and consensual in nature. It is also to be noted that the petitioner was 22 years of age while the victim was 17 years 6 months of age at the time of the incident. The victim has attained majority now and is currently around 18 years and 6 months of age, while the petitioner is currently around 24 years of age.

13. This Court also takes note of the fact that the victim, *PW-1*, did not get her evidence recorded on the last two dates of hearing before the Trial Court, i.e., on 08th August, 2026, and 18th September, 2026, and that adjournments were taken on both the occasions.

14. Furthermore, the petitioner and the victim do not live in close proximity, as they had met through Instagram.

15. The latest Nominal Roll dated 21st August, 2026, furnished by the Jail Authorities, shows that the petitioner has been in custody since 13th January, 2026, and has undergone a period of 07 months of custody as on 21st August, 2026. In addition, the Nominal Roll also records that the petitioner has no criminal antecedents and that his overall jail conduct has been satisfactory.



16. The facts of the present case call for attention to the decision of the Supreme Court in the case of *State of Uttar Pradesh Versus Anurudh and Another, 2026 SCC OnLine SC 40*, whereby, it has been held that the POCSO Act has been frequently misused to suppress adolescent romantic relationships by the families, who are in objection to such relationships. The Supreme Court has emphasised on inclusion of a ‘Romeo-Juliet’ clause to exempt such romantic relationships from the strict application of the POCSO Act. The relevant excerpts of the said judgment are as follows:

“xxx xxx xxx

A NECESSITATED POST-SCRIPT

*19. As the conclusions drawn above indicate the impugned judgment and order of the High Court has to be set aside on grounds of transgression of the jurisdiction present and thereby lacking the appropriate directions. It is to be set aside also because it goes against the statutory prescription under the JJ Act. Be that as it may, this Court has not lost sight of the well-intentioned purport of this order. **The POCSO Act is one of the most solemn articulations of justice aimed at protecting the children of today and the leaders of tomorrow. Yet, when an instrument of such noble and one may even say basic good intent is misused, misapplied and used as a tool for exacting revenge, the notion of justice itself teeters on the edge of inversion. Courts have in many cases sounded alarm regarding this situation. Misuse of the POCSO Act highlights a grim societal chasm - on the one end children are silenced by fear and their families are constrained by poverty or stigma, meaning thereby that justice remains distant and uncertain, and on the other hand, those equipped with privilege, literacy, social and monetary capital are able to manipulate the law to their advantage.** The impugned judgment is one amongst many where Courts have spoken out. **Not only are instances rife where the age of the victim is misrepresented to make the incident fall under the stringent provisions of this law but also there are numerous instances where this law is used by families in opposition to***



relationships between young people. In Satish alias Chand v. State of U.P. [Crl. Misc. Bail Appl. No. 18596 of 2024], the High Court, noted that on few occasions concern had been expressed by the Court with respect to application of the Act on consenting adolescence when it comes to consensual relationships between teenagers, four factors have been highlighted which, is crucial for the Courts to consider:

“A. Assess the Context: Each case should be evaluated on its individual facts and circumstances. The nature of the relationship and the intentions of both parties should be carefully examined.

B. Consider Victim's Statement: The statement of the alleged victim should be given due consideration. If the relationship is consensual and based on mutual affection, this should be factored into decisions regarding bail and prosecution.

C. Avoid Perversity of Justice: Ignoring the consensual nature of a relationship can lead to unjust outcomes, such as wrongful imprisonment. The judicial system should aim to balance the protection of minors with the recognition of their autonomy in certain contexts. Here the age comes out to be an important factor.

D. Judicial Discretion: Courts should use their discretion wisely, ensuring that the application of POCSO does not inadvertently harm the very individuals it is meant to protect.”

[See also: Mrigraj Gautam @ Rippu v. State of U.P.] [2023: AHC : 204171]

The Delhi High Court in Sahil v. the State NCT of Delhi [2024: DHC: 6100] the Court noted in para 11 of the order that POCSO cases filed at the behest of a girl's family objecting to romantic involvement with a young boy have become common place and consequent thereto these young boys languish in jails. Therein, reference is also made to an order of the Gujarat High Court [Jayantibhai Babulbhai Alaniv. State of Gujarat 2018 SCC OnLine Guj. 1223], where the Court noted that considering the closeness in age of the prosecutrix and the accused as also the fact that she had left home of her own accord observed that the application deserved consideration.



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This chasm between access and abuse is also mirrored in the misuse of Section 498-AIPC and the Dowry Prohibition Act, 1961. Amongst numerous examples, we may only refer to Rajesh Chaddha v. State of U.P [2025 SCC OnLine SC 1094] , where this Court lamented the use of these Sections without specific instances or relevant details, among other cases. It is also to be stated though that no amount of judicial vigilance against misuse can alone bridge this ever-widening gap. The first line of defence lies with the Bar i.e., the body that translates grievance into action and is the gatekeeper of justice at the point of entry. When it comes to matters such as these, the responsibility of the advocate is profound - to examine the allegations with detachment and necessary discretion and to counsel restraint when grievance masks vengeance and to refuse participation in litigation when it can be seen that an ulterior motive is sought to be agitated under the guise of seeking protection of the law. It is only when the Bar takes a principled, proactive role, that the legislation intended as a shield can be stopped from being twisted into a weapon. A lawyer who tempers aggression with calm, reason and rationality, protects not only the opposing party from unwarranted harm but also the client from the long-term consequences of frivolous or malicious litigation, including adverse orders, and judicial censure. By taking a principled stand, the Bar acts as a crucial filter, preventing the legal system from being overwhelmed by abuse masquerading as enforcement. Such self-regulation strengthens public faith in the profession, ensures that judicial time is reserved for genuine disputes, and reinforces the foundational idea that law is a means of justice, not a weapon of convenience. In this sense, the ethical vigilance of lawyers is not ancillary to justice, it is indispensable to it. When they do not do so, the chasm alluded to above widens. Society also must match institutional reform with moral awakening. The intent and object of these legislations must be at the forefront when a person wishes to lodge a complaint thereunder. The misuse of these laws is a mirror to the opportunistic and self-centered view that pervades the application of law. It is only through discipline, integrity and courage that these problems can be remedied and rooted out. Any legislative amendment or judicial direction will remain lack-luster without this deeper change.



We have referred to certain instances of the High Courts noting the misuse/misapplication of the POCSO Act, somewhat in line with the indices appended to the impugned judgment as also its progenitors.

Considering the fact that repeated judicial notice has been taken of the misuse of these laws, let a copy of this judgment be circulated to the Secretary, Law, Government of India, to consider initiation of steps as may be possible to curb this menace inter alia, the introduction of a Romeo - Juliet clause exempting genuine adolescent relationships from the stronghold of this law; enacting a mechanism enabling the prosecution of those persons who, by the use of these laws seeks to settle scores etc.

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(Emphasis Supplied)

17. The Court also notes the decision of the Supreme Court in the case of ***Prasanta Kumar Sarkar Versus Ashis Chatterjee and Another, (2010) 14 SCC 496***, wherein, the Supreme Court while laying down the parameters for granting bail, has held as follows:

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9. We are of the opinion that the impugned order is clearly unsustainable. It is trite that this Court does not, normally, interfere with an order passed by the High Court granting or rejecting bail to the accused. However, it is equally incumbent upon the High Court to exercise its discretion judiciously, cautiously and strictly in compliance with the basic principles laid down in a plethora of decisions of this Court on the point. It is well settled that, among other circumstances, the factors to be borne in mind while considering an application for bail are:

(i) whether there is any prima facie or reasonable ground to believe that the accused had committed the offence;

(ii) nature and gravity of the accusation;

(iii) severity of the punishment in the event of conviction;

(iv) danger of the accused absconding or fleeing, if released on bail;

(v) character, behaviour, means, position and standing of the accused;



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(vi) likelihood of the offence being repeated;

(vii) reasonable apprehension of the witnesses being influenced; and

(viii) danger, of course, of justice being thwarted by grant of bail.

[See State of U.P. v. Amarmani Tripathi [(2005) 8 SCC 21 : 2005 SCC (Cri) 1960 (2)] (SCC p. 31, para 18), Prahlad Singh Bhati v. NCT of Delhi [(2001) 4 SCC 280 : 2001 SCC (Cri) 674] , and Ram Govind Upadhyay v. Sudarshan Singh [(2002) 3 SCC 598 : 2002 SCC (Cri) 688] .]

xxx xxx xxx ”

18. In cases of this nature on the one at hand, where the facts disclose a consensual adolescent relationship between persons close in age, courts have recognised that the rigours of the POCSO Act should be tempered at the stage of bail, applying the rationale of the ‘*Romeo Juliet*’ clause, without diluting the statutory protection afforded to children. Given these circumstances, no useful purpose would be served by keeping the petitioner in further custody. Thus, having regard to the facts and circumstances of the present case, this Court is of the view that the petitioner has made out a case for grant of regular bail.

19. Having regard to the entirety of the circumstances, the petitioner is directed to be released on bail in connection with FIR No. 944/2025 dated 30th November, 2025, registered at PS Wazirabad, North, Delhi, upon furnishing a personal bond for a sum of Rs. 30,000/-, with one surety of the like amount to the satisfaction of the Trial Court/Duty Magistrate, and subject to the following conditions:

19.1 The petitioner shall appear before the Trial Court as and when directed;

19.2 The petitioner shall furnish his residential address to the IO and shall not change the address without informing the concerned IO/Station House



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Officer (“SHO”) of the local PS;

19.3 The petitioner shall not, directly or indirectly, attempt to contact the victim or her family, or tamper with the evidence, or otherwise indulge in any act or omission that is unlawful or prejudicial to the proceedings, nor shall he offer any inducement, threat, or promise to any person acquainted with the facts of the case;

19.4 The petitioner shall, upon his release, provide his mobile number to the concerned IO/SHO, which shall be kept in working condition at all times. The mobile number shall not be switched off or changed without prior intimation to the IO during the pendency of the trial;

19.5 The petitioner shall report to the concerned local PS on every Monday at 09:00 AM, and shall be released within two hours after completion of the formalities;

19.6 The petitioner shall not reside within 05 km radius of the residence of the victim and shall also furnish proof of his residence to the concerned IO. The petitioner shall not move in the vicinity of the victim in any manner;

19.7 The applicant shall not commit any offence during the period of his release.

20. In the event of there being any FIR/DD entry/complaint lodged against the petitioner, it would be open to the State to seek redressal by filing an application seeking cancellation of bail.

21. It is clarified that any observations made in the present order are solely for the purpose of deciding the present bail application, and shall neither influence the outcome of the trial proceedings, nor be construed as an expression of opinion on the merits of the case.

22. The bail application is allowed and accordingly disposed of, in the



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aforesaid terms.

23. Copy of the order be communicated to the concerned Jail Superintendent for information and necessary compliance.

MINI PUSHKARNA, J

OCTOBER 16, 2026/KR