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

% ***Date of Decision: 20th November, 2026***

\# **CNR No. DLHC010351912026**

\+ BAIL APPLN. 3105/2026

SANDEEP SAINI .....Petitioner

Through: Mr. Pawan Kumar, Adv.
M: 9599553147

versus

STATE OF NCT OF DELHI .....Respondent

Through: Mr. Sunil Kumar Gautam, APP
M: 9871349009
SI Braj Prakash, PS Malviya Nagar

CORAM:
HON'BLE MS. JUSTICE MINI PUSHKARNA

MINI PUSHKARNA, J *(ORAL):*

1. The present application has been filed under Section 482 read with Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 ("BNSS"), on behalf of the petitioner, i.e., Sandeep Saini, S/o Jai Singh, seeking anticipatory bail in respect of the First Information Report ("FIR") being, *FIR No. 237/2026*, dated 30th July, 2026, registered at Police Station ("PS") Malviya Nagar, South, Delhi, under Section 6 of the Protection of Children from Sexual Offences Act, 2012 ("POCSO Act").

2. The prosecution case in brief is as follows:

2.1. The present *FIR No. 237/2026* was registered against the petitioner herein pursuant to an inquiry initiated on the basis of complaint case

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bearing *CT. Cases 207/2025*, titled *"Neeraj Saini Vs. Sandeep Saini @ Chotu and Anr."*, wherein, *vide* order dated 14th May, 2026, Additional Sessions Judge ("ASJ") (FTSC) (POCSO)/South/Saket called for a report under the signatures of the Deputy Commissioner of Police ("DCP") as to whether the said complaint disclosed the commission of offences under the POCSO Act.

2.2. The underlying inquiry pertains to General Diary ("GD") No. 81A dated 20th December, 2024, which was received at PS Malviya Nagar regarding the admission of the deceased, aged about 19 years, at All India Institute of Medical Sciences ("AIIMS") Trauma Centre, New Delhi, where she was declared as '*brought dead*' *vide Medico Legal Case ("MLC") No. 50049686/24* and thereafter the body was sent for post-mortem.

2.3. During the course of inquiry, post-mortem proceedings were conducted, relevant exhibits were seized.

2.4. A suicide note was also recovered during the inquiry which was taken into police possession *vide* a separate seizure memo.

2.5. The statement of the father of the deceased was recorded by the Executive Magistrate, wherein, he expressed no suspicion against any person regarding the death of his daughter.

2.6. During the course of enquiry, the petitioner herein, who is the husband of the deceased, produced an affidavit regarding her age along with a copy of her Aadhar Card, wherein her date of birth was mentioned as 01st January, 2005. It was further revealed that the petitioner was already married prior to his marriage with the deceased, which was solemnised on 16th September, 2023.

2.7. Subsequently, upon verification of the age-related records from the school, the prosecution found the date of birth of the deceased to be 01st

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January, 2007, thereby indicating the she was aged about 16 (sixteen) years and 08 (eighteen) months old at the time of marriage.

2.8. It was further revealed that the deceased had delivered a baby girl who was approximately 06 (six) months old at the time of her death.

2.9. On the basis of these facts and the legal opinion obtained regarding the inquiry conducted, a *prima facie* offence under Section 6 of the POCSO Act was found to be made out. Accordingly, a *rukka* was prepared and the present FIR came to be registered under Section 6 of the POCSO Act.

3. In support of the present application, learned counsel appearing on behalf of the petitioner has made the following submissions:

3.1. The copy of the Aadhar Card of the deceased reflects her date of birth as 01st January, 2005. The said document has been handed over to this Court during the course of hearing, and is taken on record.

3.2. The deceased herself had executed an affidavit dated 18th September, 2023, declaring her date of birth as 01st January, 2005, and representing herself to be a major. Further, the postmortem report dated 23rd December, 2024, records her age as 19 years and describes the deceased as an 'adult'.

3.3. In their affidavits dated 11th July, 2026, the parents of the deceased have stated the date of birth of the deceased as 01st January, 2005, and expressed ignorance as to how 01st January, 2007, came to be recorded in the school register.

3.4. The age-related documents, i.e., admission register and the school transfer certificate, relied upon by the prosecution, reflects the date of birth of the deceased as 01st January, 2007. However, no foundational document existed in the school to support the recorded date of birth of the deceased.

3.5. The complaint was made by a third-party NGO, which had no personal

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knowledge of the facts, and a preliminary enquiry was conducted pursuant to proceedings under Section 175(3) of the BNSS before registration of the FIR.

3.6. The Investigating Agency ("IA") had collected the school admission register, transfer certificate, certificate issued by the principal and statements of village officials during the preliminary enquiry, prior to registration of the FIR.

3.7. Despite the order dated 14th July, 2025, passed during the proceedings under Section 175(3) of the BNSS, directing verification of the Aadhaar records, no verification was conducted from UIDAI before registration of the FIR.

3.8. The FIR initially mentioned the date of birth of the deceased as 18th September, 2003, whereas the Aadhaar Card reflects her date of birth as 01st January, 2005. The date of birth was subsequently corrected in the reply to the first bail application.

3.9. The deceased had committed suicide on 20th December, 2024, while the present FIR came to be lodged only on 03rd July, 2026, after a considerable delay.

3.10. The petitioner has joined investigation pursuant to the interim protection granted by this Court.

3.11. No recovery is to be effected from the petitioner, and the documentary evidence relevant to the investigation is already in possession of the IA. Custodial interrogation is not required. The petitioner is willing to cooperate with the investigation and abide by the conditions imposed by this Court.

3.12. The petitioner has no criminal antecedents, and he is not likely to abscond or influence witnesses. His custodial detention is not warranted in the facts and circumstances of the case.

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4. The Status Report dated 14th November, 2026, has been handed over by the learned Additional Public Prosecutor ("APP") for State, which is taken on record.

5. Learned APP for the State has submitted as follows:

5.1. The petitioner was already married and the deceased was his second wife.

5.2. The deceased was a minor at the time of her marriage as well as at the time of her death.

5.3. The school record of the deceased clearly shows her date of birth as 01st January, 2007. The school record of the deceased would be material for assessing the age of the deceased.

5.4. There is apprehension of the petitioner influencing the witnesses and hampering the investigation.

6. Having heard learned counsels appearing for the parties, at the outset, this Court notes that the deceased committed suicide by hanging on 20th December, 2024. No complaint was filed by the parents of the deceased. The FIR came to be lodged on the complaint by an NGO and was registered on 03rd July, 2026, approximately after 01 (one) year and 07 (seven) months of the death of the deceased.

7. The copy of the Aadhar Card of the deceased, which has been handed over to this Court, reflects that it was issued in the year 2015, and records date of birth of the deceased as 01st January, 2005. Further, it is to be noted that the school record of the deceased showing her date of birth as 01st January, 2007, itself records her Aadhar Card Number against her name. However, the said Aadhar Card, as noted herein above, records her date of birth as 01st January, 2005. Therefore, it is not clear on what basis the date of birth of the

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deceased was recorded as 01st January, 2007, when the Aadhar Card submitted to the school itself recorded her date of birth as 01st January, 2005.

8. Furthermore, this Court also takes note of the affidavits dated 11th July, 2026, filed by the parents of the deceased, wherein, they have categorically deposed that their daughter was major at the time of her marriage and her correct date of birth was 01st January, 2005.

9. Accordingly, the available records *prima facie* raise doubt regarding the age of the deceased, and consequently the applicability of the POCSO Act.

10. In this regard, it is to be noted that the Supreme Court in the case of ***The State of Uttar Pradesh Versus Anurudh and Another, 2026 SCC OnLine SC 40*** has clearly laid down that determination of age of victim is a matter of trial and not at the stage of bail. If the question of age is raised at the stage of bail, it is only open for the Court, from the perusal of the documents, to take a *prima facie* view as to the age of the victim, not one on the correctness of the documents, since that would amount to mini trial. Thus, it has been held as follows:

> *"xxx xxx xxx*
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> ***16. Apropos the above discussion, it is clearly held that determination of age of the victim is a matter of trial and not at the stage of bail. If the age is under question, the bail Court may examine the documents produced to establish age, but it will not enter into the question of those documents being correct or not so.*** *The mandate of Section 94 JJ Act is clear. The documents provided therein are to be utilized for determination of the age of the victim, and only in the absence thereof, will medical evidence be resorted to. The decisions in P. Yuvaprakash v. State [2023 SCC OnLine SC 846] and Rajni v. State of UP [2025 INSC 737] make this as evident as can be.*
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> *xxx xxx xxx*
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> ***18.*** *In fine, our conclusions are that the High Court in bail*

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jurisdiction was coram non judice for issuing directions mandating the investigating authorities within the State of Uttar Pradesh to necessarily have a medical examination of the victim conducted, with the particular intent to determine the age of the victim as also holding, that a bail Court would be empowered to entertain challenges to the documents produced to establish the age of the victim The importance of medical examination in the harrowing crimes of sexual assault cannot be overstated, it is not merely a record of injury or a catalogue of biological traces; it is the voice of the body, speaking when words falter and memory trembles. In cases where the victim's courage may be tested by stigma, shame, or the weight of societal scrutiny, medical evidence provides an impartial testament, grounding the pursuit of justice in the certainty of observable fact. It is, in essence, the bridge that links the personal suffering of the victim with the impartial adjudication of the law. But at the same time, its purpose, which is to gather essential evidence in a scientifically sound manner, with due regard to the principles of human dignity on one hand and evidence on the other, cannot be reduced to a common, matter of course step - especially when a procedure with a legislative imprimatur has been laid down. The Court could not have passed directions that go against clearly stated legislative intent under Section 94 of the JJ Act. ***The determination of the age of the victim is a matter for trial, and the presumption which is accorded to the documents enumerated under the Section, has to be rebutted there, for that is the appropriate forum to do so, not the bail Court. If the question of age is raised at the stage of bail, it is only open for the Court to, from the perusal of the documents, take a prima facie view as to the age of the victim, not one on the correctness of the documents since that would amount to a mini trial.*** *It could also not have fused statutory jurisdiction with a constitutional one, lifting one to the other, or downgrading the higher to the lower in order to grant itself the wherewithal, in an otherwise fairly circumscribed jurisdiction, to do what could not be done.*

xxx xxx xxx"

(Emphasis Supplied)

11. Accordingly, the correctness and veracity of the documents pertaining to the age of the deceased would be subject matter of trial.

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12. Having regard to the factors as discussed hereinabove, and the fact that the petitioner has joined investigation pursuant to the interim protection granted by this Court, this Court is of the view that the interim protection granted to the petitioner is liable to be confirmed.

13. For the reasons aforesaid, it is directed that in the event of arrest, in connection with *FIR No. 237/2026*, dated 30th July, 2026, registered at PS Malviya Nagar, South, Delhi, under Section 6 of the POCSO Act, the petitioner shall be released on bail subject to furnishing a personal bond in the sum of Rs. 10,000/- (Rupees Ten Thousand only) with 01 (one) surety in the like amount, subject to the satisfaction of the Investigating Officer ("IO")/Station House Officer ("SHO") and subject to the following further conditions:

a. The petitioner will report to the IO on each and every occasion, as required by the IO, and will cooperate in the investigation,
b. The petitioner shall not, directly or indirectly, influence the complainant, 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.
c. The petitioner shall furnish his mobile number to the concerned IO/SHO and shall keep the said mobile phone operational and switched on at all times. The mobile number shall not be changed or switched off without prior intimation to the IO/SHO.
d. The petitioner shall furnish his complete residential address to the IO/SHO, and will not change his residential address without prior intimation to the IO.

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e. The petitioner shall not commit any offence during the pendency of these proceedings.

14. The present anticipatory bail application is accordingly allowed and disposed of, in view of the aforesaid 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.

MINI PUSHKARNA, J

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