



2025:DHC:11246



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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision: 11th December, 2025

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BAIL APPLN. 3895/2025 & CRL.M.A. 30345/2025

JASWANT KUMAR RAO

.....Applicant

Through: Mr. Ravinder Kumar, Ms.
Santosh Dixit, Ms.
Kanishka Gautam and Mr.
Deepak Poonia, Advs.

versus

THE STATE (GOVT. OF NCT OF
DELHI)

.....Respondent

Through: Mr. Sunil Kumar Gautam,
APP for the State with
Insp. Abhijeet Singh, PS
Geeta Colony.
Ms. Vanya Chhabra, Adv.
for the prosecutrix
(through VC)

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

AMIT MAHAJAN, J. (Oral)

1. The present application is filed seeking regular bail in FIR No. 338/2024 dated 16.07.2024, registered at Police Station Geeta Colony for offences under Sections 376D/506 of the Indian Penal Code, 1860 ('IPC').

2. Briefly stated, the FIR was registered on a complaint given by the prosecutrix. It is alleged that in the month of October 2023, the applicant along with co-accused Raj entered the house of the prosecutrix whereafter she was raped by co-accused Raj



and a video of the commission of the alleged offence had been captured by the applicant. It is alleged that the accused persons also threatened the prosecutrix of dire consequences should she disclose about the said incident to anyone.

3. During the course of the investigation, the incriminating video was produced by one of the witnesses in a pen drive coupled with a certificate under Section 63 of the Bharatiya Sakshya Adhiniyam, 2023 wherein one accused person was seen committing the offence and the other person who was not visible in the video was capturing the video of the commission of the alleged incident. It is stated that the voice of the second person was audible in the video. The said video was thereafter shown to the prosecutrix, and she identified the person committing the offence as co-accused Raj and the one recording the video to be the present applicant. The pen drive was thereafter seized and sent for FSL examination.

4. The accused persons were evading their arrest whereafter NBWs were issued on 05.09.2024. The applicant was thereafter arrested on 29.09.2024 and is in custody since then.

5. During the course of further investigation, the voice sample of the applicant was taken with the aid of the FSL authority and the said voice sample along with the video were sent to FSL for the purpose of ascertaining the voice of the applicant in the video. As per the FSL report, the voice exhibits had insufficient acoustic cues and other linguistic and phonetic features as a consequence of which no opinion could be furnished.



6. The learned counsel for the applicant submits that the applicant is innocent and has been falsely implicated in the present case. She submits that the alleged incident took place in October 2023, however, the FIR in the present case was registered much later in July, 2024 which raises doubt on the veracity of the case of the prosecution. She submits that the allegation against the applicant is that he was recording the video of the alleged incident. She submits that the applicant is not visible in the said video. She submits that the voice sample of the applicant was taken and the same was also sent to FSL, however, as is evident from the FSL report, the voice samples of the applicant did not match with the voice audible in the video.

7. She submits that the prosecutrix has already been examined and there can be no apprehension of tampering of the witnesses. She submits that the applicant is languishing in custody since 29.09.2024. She submits that the applicant is responsible to provide for his children, wife and parents and prays that the applicant be enlarged on bail.

8. *Per contra*, the learned Additional Public Prosecutor for the State and the learned counsel for the prosecutrix vehemently oppose the grant of any relief to the applicant. They submit that the allegations against the applicant are serious in nature. They submit that the prosecutrix has supported the case of the prosecution and also correctly identified the applicant during the course of her examination. They submit that the complaint could not be given on an earlier occasion on account of fear. They submit that the applicant and co-accused Raj had threatened to



make the video of the prosecutrix '*viral*' and that the prosecutrix herself came to know about transmission of the video when the same was shown to her by one Vijay.

9. They submit that the said video makes it abundantly clear that co-accused Raj sexually assaulted the prosecutrix without her consent.

10. I have heard the counsel and perused the record.

11. It is settled law that the Court, while considering the application for grant of bail, has to keep certain factors in mind, such as, whether there is a *prima facie* case or reasonable ground to believe that the accused has committed the offence; the nature and gravity of the accusation; severity of the punishment in the event of conviction; the danger of the accused absconding or fleeing if released on bail; reasonable apprehension of the witnesses being threatened; etc.

12. At the outset it is relevant to note that the allegations against the applicant are serious in nature. It is the case of the prosecution that the applicant along with co-accused Raj entered the house of the prosecutrix whereafter co-accused Raj raped the prosecutrix and a video of the same was captured by the applicant. The prosecutrix had alleged that the accused persons had also threatened to make the video *viral*.

13. The learned counsel for the applicant has raised a number of arguments ranging from the dissimilarity of the voice of the applicant with the one audible in the video to the delay in the registration of FIR as a ground to seek bail. The learned counsel for the applicant has emphasised that the FSL report indicates



that the analysis of the voice sample of the applicant with the one audible in the video revealed that the same were not similar and has consequently urged that the same casts a doubt on the case of the prosecution. It has also been urged that the alleged incident took place way back in October 2023, however, the FIR was registered much later in July, 2024 and that the same raises doubt on the veracity of the case of the prosecution.

14. However, it cannot be ignored that while considering an application of the accused seeking bail, the Court would not be justified in going into evidence on record at such depth so as to ascertain the probability of the conviction of the accused by appreciating technical arguments as the same is a matter of trial.

15. At this stage however the nature of the crime and the *prima facie* weight of the evidence suggest that granting bail to the applicant would not be in the interest of justice. A perusal of the chargesheet indicates that during the course of investigation, the video of the alleged incident was recovered and was handed over to the police by one Vijay. It is further borne out from the chargesheet that the video showed one person forcibly making sexual relations with the prosecutrix, and another man making a video of the alleged incident who was not visible in the video. Upon showing the video to the prosecutrix, she identified the person committing the alleged act as co-accused Raj and the one recording the video as the present applicant.

16. From a perusal of the evidence of the prosecutrix, it is apparent that the prosecutrix has supported the case of the prosecution and has also correctly identified the applicant. *Prima*



facie, the evidence presented at this stage militates against the grant of any relief to the applicant. The benefit of minute inconsistencies or the delay in the lodging the FIR cannot be accorded to the applicant at this stage and intricacies of evidence would be examined during the course of the trial. Accused persons are stated to be neighbours who allegedly threatened to make the video of the incident viral. In such circumstances, victim being scared and giving the complaint belatedly is plausible explanation and would be subject matter of trial.

17. Accordingly, taking into account the submissions made by the learned counsel and material available on record, this Court is of considered opinion that *prima facie*, there are serious allegations against the applicant which at this stage cannot be said to be without any material.

18. Considering the facts and circumstances of this case, this Court is not inclined to grant bail to the applicant at this juncture.

28. It is made clear that the observations made in the present case are only for the purpose of considering the bail application and should not influence the outcome of the trial and also not be taken as an expression of opinion on the merits of the case.

19. In view of the above, the present bail application is dismissed.

20. This Court appreciates the efforts of Ms. Vanya Chhabra, learned counsel (Contact Number : 9999890484), who had agreed to address arguments on behalf of the victim on the request of this Court.



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21. The Delhi High Court Legal services Committee is directed to pay the fees of the learned *Amicus Curiae* as per its scheduled rates and rules.

AMIT MAHAJAN, J

DECEMBER 11, 2025

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