



2026:DHC:991



\$~36

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

%

Date of Decision: 06.02.2026

+ **BAIL APPLN. 543/2026 & CRL.M.(BAIL) 261/2026**

ASHRAFPetitioner

Through: Mr. Harshith Pottangi and Mr. Priyam Kaushik, Advocates

versus

STATE OF NCT OF DELHI AND ANR.Respondents

Through: Mr. Sanjeev Sabharwal, APP for State with SI Reena and SI Ekta, PS Dwarka

CORAM: JUSTICE GIRISH KATHPALIA

JUDGMENT (ORAL)

1. The accused/applicant seeks regular bail in case FIR No. 125/2023 of Police Station Dwarka, Sector-23 for offence under Section 323/341 IPC & Section 6/10 POCSO Act.
2. Broadly speaking, allegation against the accused/applicant is as follows. The FIR was registered on the statement of mother of the child victim. According to the version given by two children of the first informant, the accused/applicant used to forcibly take both children to his



home while they would be going for tuition. Once at his home, the accused/applicant used to carry the female child in his lap and used to force the male child to give him oral sex. After the act, the accused/applicant used to give them at times Rs.4-5/- and threatened them not to disclose it to anyone.

3. Learned counsel for accused/applicant refers to the testimony of PW4, the first informant, who has not supported the prosecution case in her chief examination. It is contended that on account of the first informant having turned hostile, the accused/applicant deserves bail. It is also argued that the prosecution did not prepare and place on record the site plan of the house where the alleged offence was committed. Further, learned counsel for accused/applicant also seeks bail on medical grounds of the accused/applicant.

4. On the other hand, learned APP for State assisted by IO/SI Reena strongly opposes the bail application, disclosing that learned counsel for accused/applicant has concealed testimony of both children of the first informant. It is contended that both children have completely supported the prosecution case. Learned APP for State has also shown me copy of the testimony of children of the first informant in mobile phone of the IO. As regards medical grounds, learned APP for State refers to the medical status report Annexure A4 and submits that it is only an ordinary cough and cold with which the accused/applicant is suffering.



5. So far as the medical ground is concerned, according to the medical status report Annexure A4, general condition of the accused/applicant is stable and he is being provided with all medical support. According to the said report, the ailment suffered by the accused/applicant is only a cough for which he is being provided expectorant. Further, according to the said report, there is no fever or shortness of breath and all vitals are within normal limits.

6. Coming to the testimony of the first informant, who turned hostile to prosecution case, it has to be examined in the light of testimonies of the both children, who have testified facts regarding the sexual abuse suffered by them at the hands of the accused/applicant. There was no justified reason for the accused/applicant to conceal testimonies of both children from this Court.

7. Going a step deeper, the first informant got the FIR registered on the basis of, as is obvious in law, her signed statement, but in the witness box she turned hostile to her own statement. Learned APP for State submits that the State would immediately register FIR against the first informant in accordance with law for her hostile testimony even in such heinous crime.

8. Considering the overall circumstances as mentioned above, I do not find it a fit case to release the accused/applicant on bail. The bail application alongwith pending application is dismissed.



2026:DHC:991



9. Copy of this order be sent to the concerned Jail Superintendent for being conveyed to the accused/applicant immediately.

GIRISH KATHPALIA
(JUDGE)

FEBRUARY 06, 2026/*as*