



2026:DHC:998



\$~44

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% *Date of Decision: 06.02.2026*+ **BAIL APPLN. 552/2026 & CRL.M.A. 4089/2026**

SURJEET KUMAR @ KALUPetitioner

Through: Mr. C.B. Singh, Advocate.

versus

STATE OF NCT OF DELHI & ANR.Respondents

Through: Mr. Satinder Singh Bawa, APP for
State with IO/SI Monika Singh.**CORAM: JUSTICE GIRISH KATHPALIA****J U D G M E N T (ORAL)**

1. The accused/applicant seeks regular bail in case FIR No. 187/2023 of Police Station Prem Nagar for offence under Section 363/376 IPC and Section 6 of POCSO Act.

2. It is extremely unfortunate that neither side is equipped with complete record. Learned APP submits on instructions of IO/SI Monika Singh that the prosecutrix in her testimony supported prosecution case. Testimony of prosecutrix has not been placed on record by the counsel for accused/applicant. But on being called upon to show the testimony from his



file, counsel for accused/applicant expresses inability as he has not brought the file. Even from the other side is the same status as the IO/SI Monika Singh has not brought the investigation file.

3. In this court, bail matters are taken up on priority basis irrespective of their placement in the cause list in order to ensure speedy disposal of the same. But this is the classic example of delays as both sides are not serious about the matter.

4. At this stage, the file has reached and is shown by learned prosecutor.

5. Learned counsel for accused/applicant submits that he has been falsely implicated. It is submitted by learned counsel that the prosecutrix, in the very first sentence of her testimony before the trial court stated that no offence was committed against her. It is contended by learned counsel that the prosecutrix herself having not supported prosecution case, it is a fit case to grant bail. Further, it is submitted by learned counsel for accused/applicant that the prosecutrix was examined completely on the same day before the trial court. No other argument has been advanced.

6. But perusal of testimony of prosecutrix shows that submission of learned counsel for accused/applicant is not correct. For clarity, I asked and learned counsel for accused/applicant stated that it is he only who had cross examined the prosecutrix before the trial court.



7. As per the record produced before me, the prosecutrix was chief examined as PW1 before the trial court on 12.09.2024 only partly and thereafter her further chief examination was deferred as she was not feeling well. Further chief examination of prosecutrix was carried out on 19.12.2024. In her chief examination, the prosecutrix completely supported the prosecution case, alleging that she had been forcibly kidnapped under a threat that if she objected, the accused/applicant would malign her by posting her pictures on social media. The prosecutrix in her chief examination further described having been taken to various places by the accused/applicant where he raped her forcibly. If recording of further testimony of the prosecutrix had to be deferred on 12.09.2024, her further testimony ought to have been recorded on the very next day, keeping in mind the nature of the trial. But the learned Court of Sessions dealing with the POCSO trial adjourned the matter to 19.12.2024. It is on 19.12.2024 that in her cross examination the prosecutrix took a U-turn. It has been repeatedly directed across multiple judicial precedents that in trials before the Court of Sessions, the trial must be taken up on day to day basis at least so far as the witness in box is concerned. For, such prolonged gap in the course of recording testimony creates occasions for pressurizing the partly examined witnesses of prosecution.

8. After examining the police file, learned prosecutor submits that all family members of the prosecutrix have supported the prosecution allegations.



2026:DHC:998



9. Broadly speaking, prosecution case is that the accused/applicant kidnapped the prosecutrix, minor in age and after taking her to various places, he sexually ravaged her.

10. Considering the above circumstances, I do not find it a fit case to release the accused/applicant on bail. Therefore, the bail application is dismissed. Copy of this order be sent to the concerned Jail Superintendent for being conveyed to the accused/applicant. Pending application stands disposed of.

11. In view of circumstances described in paragraph 7 above, it is directed that copy of this judgment be sent to all Principal District and Sessions Judges in Delhi with the request to circulate the same amongst all courts dealing with trials in Sessions Cases, especially cases under the POCSO Act with the direction to ensure that preferably such trials should be conducted on day-to-day basis and if that is not possible, testimony at least of the witness already being examined should be recorded on day-to-day basis till its conclusion, so that any possibility of pressurizing the witness is minimized.

**GIRISH KATHPALIA
(JUDGE)**

FEBRUARY 06, 2026/ry