



2026:DHC:2960



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

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Date of Decision: 09.04.2026

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BAIL APPLN. 1087/2026 & CRL.M.A. 8189/2026

GAYASSUDIN

.....Petitioner

Through: Mr. Hemraj Murmu, Mr. Arun Kumar
Bharti and Mr. Tanay Jareda,
Advocate

versus

STATE OF NCT OF DELHI

.....Respondent

Through: Mr. Sanjeev Sabharwal, APP for State
with IO/SI Shakuntala, PS Jamia
Nagar**CORAM: JUSTICE GIRISH KATHPALIA****JUDGMENT (ORAL)**

1. The accused/applicant seeks regular bail in case FIR No. 167/2025 of PS Jamia Nagar for offence under Section 69/123/89/79/351/115(2) of BNS and Section 6 of POCSO Act.
2. In furtherance of last order, testimony of the prosecutrix was recorded by the trial court and copy of the same has been filed by prosecution with the status report. I have heard learned counsel for accused/applicant and learned APP for State assisted by IO/SI Shakuntala. I have also heard the prosecutrix (*who herself is a law student*) as well as her counsel.
3. Broadly speaking, the case set up by the prosecution is that despite



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specific and detailed allegations of rape, followed by pregnancy and abortion, the prosecutrix after attaining the age of majority opted to get married with the accused/applicant.

3.1 The FIR was registered on the statement of the prosecutrix, alleging that at the age of 16 years, the prosecutrix developed friendship with the accused/applicant over Facebook and on his request, she accompanied him to a flat of his friend. The accused/applicant specifically assured that they would just sit and talk and nothing wrong would be done to her. Once inside the flat, the accused/applicant served her a soft drink and chicken, which she consumed and gradually lost consciousness. In the evening, on regaining consciousness, she found herself completely naked and also found the accused/applicant naked lying by her side; there were blood stains on the mattress and she felt pain in her private parts, so she started crying. At that stage, the accused/applicant assured to get married with her after she attained age of 18 years. Thereafter, the accused/applicant went out to bring some pain killer and gave the same to her and at about 08:30 pm both of them left the flat and she returned home. Thereafter, again the accused/applicant took her to his home when none else was there and indulged in sex with her. Even thereafter, the accused/applicant, falsely assuring her to get married, repeatedly took her to a hotel and indulged in sexual relations. During the said period, she got pregnant twice and the accused/applicant got the pregnancy terminated. But after she attained the age of 18 years, the accused/applicant refused to get married with her and even started beating her up. It is with that background, the prosecutrix



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lodged a complaint with the police which was registered.

4. Learned counsel for accused/applicant submits that subsequent to registration of the case, the accused/applicant got married with the prosecutrix, so it is a fit case to release him on bail. In this regard, learned counsel for accused/applicant also places reliance on the testimony of the prosecutrix recorded by the trial court and submits that the prosecutrix never had any grievance with the accused/applicant and that she was not even aware about the contents of her complaint, because the same was drafted by her counsel in Saket Courts.

5. The prosecutrix and her counsel also support the accused/applicant. The prosecutrix submits that the contents of the FIR are false and that she was not aware about the same, because she did not read the FIR. However, prosecutrix also states that initially her counsel had drafted the complaint in English, but on her insistence, he translated the same into Hindi and she submitted the same before the Local Police.

6. Learned APP for State assisted by IO/SI Shakuntala strongly opposes the bail application, disclosing that the prosecutrix is not an illiterate person but is a student of law, so it cannot be believed that she was not aware about contents of her complaint. It is also submitted by learned APP for State that this is a fit case in which the police needs to take action against the prosecutrix in view of her testimony before the trial court. It is submitted by learned APP for State that granting bail in such cases would encourage such



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lawlessness with impunity.

7. To begin with, it would be significant to note that the prosecutrix is a law student and *prima facie*, I find it difficult to believe that she is so gullible that she would simply sign such a serious complaint and give it to the local police, that too after getting the same translated from English to Hindi without reading its contents. Not only this, the prosecutrix today also before this Court does not divulge the identity of the advocate, who allegedly drafted that complaint. As stated by her before the trial court, the prosecutrix even paid fees to that advocate. From testimony of prosecutrix, I find credence in the argument of the prosecution that *prima facie*, her testimony appears to be false, though on this aspect, the trial court shall take an independent view and this observation is being made only to deal with the argument advanced on behalf of the accused/applicant and the prosecutrix.

8. Further, the IO had also got recorded statement of the prosecutrix before the magistrate concerned under Section 164 CrPC, in which she reiterated the abovementioned allegations levelled by her in the FIR. In her testimony, the prosecutrix stated that the concerned magistrate had asked her if she was telling truth or not, but she did not say that the allegations were false, because her Advocate had warned her that if she did not reiterate the contents of her complaint, she would have to go to jail. Such statement coming from a person not an illiterate but a law student is difficult to believe.



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9. Of course, as per documents on record, on 12.02.2026, the accused/applicant got married with the prosecutrix through *Nikahnama*. But that does not absolve the accused/applicant of his repeated acts of rape when the prosecutrix was minor in age. As mentioned above, at the time of commencement of sexual relations between the accused/applicant and the prosecutrix, the latter was aged only 16 years and when she attained the age of majority in the year 2024, the accused/applicant refused to get married with her, which led to the present FIR. It is only after the accused/applicant was arrested and was in jail that he agreed to get married with her, so by way of order dated 02.02.2026 of this Court, his interim bail application was disposed of directing that he be taken in custody before the *Qazi*, who performed the marriage ceremony. Clearly, the marriage was performed by the accused/applicant simply as a ploy to get himself bailed out, having committed repeated rapes of a minor girl, as alleged by her in the FIR and statement under Section 164 CrPC.

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

**GIRISH KATHPALIA
(JUDGE)**

APRIL 9, 2026/as