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

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Date of Decision: 23.07.2025

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BAIL APPLN. 2648/2025 & CRL.M.A. 20652/2025

LALIT PASWAN @ PANJI

.....Petitioner

Through: Ms. Dolly Sharma, Advocate.

versus

THE STATE OF NCT OF DELHI

.....Respondent

Through: Mr. Nawal Kishore Jha, APP for State
with IO/SI Pinki Jakhar**CORAM: JUSTICE GIRISH KATHPALIA****J U D G M E N T (ORAL)**

1. The accused/applicant seeks regular bail in case FIR No.720/2023 of PS Shahbad Dairy for offences under Section 376/323/328/506 IPC and Section 6 of POCSO Act.

2. On last date, after addressing partly learned counsel for accused/applicant sought adjournment to obtain instructions as to whether this bail application should be pressed or withdrawn. Today, it is submitted by learned counsel for accused/applicant that her instructions are to press this application. As such, I have heard further submissions of learned counsel for accused/applicant.

3. Broadly speaking, according to the prosecution case, the prosecutrix was minor in age when raped and became pregnant. The DNA profiling established the paternity of the child in the womb of prosecutrix as that of



the accused/applicant. The prosecutrix supported prosecution case during her testimony in the trial. The trial is at fag end and now only the IO remains to be examined.

4. Against the above backdrop, learned counsel for accused/applicant insists that the court must hear the prosecutrix present today in court. It is contended by learned counsel that sexual relations between the accused/applicant and the prosecutrix were consensual relations. The prosecutrix present in court (*identified by IO/SI Pinki Jakhar*) is an illiterate girl, not accompanied with a counsel. During investigation, statement of prosecutrix was recorded under Section 164 CrPC, in which she narrated the manner in which she was raped by the accused/applicant. Thereafter, even during her chief examination before the trial court, the prosecutrix reiterated her allegations of rape, followed by her pregnancy. It is subsequent thereto that on behalf of the accused/applicant, an application under Section 311 CrPC was filed for recall of prosecutrix into the witness box, which application was dismissed by the trial court and that order has been challenged before this court but no stay of trial proceedings has been granted.

5. In the overall situation as mentioned above, even if assumingly today the prosecutrix wants to support the bail application, the issue would be as to whether her sexual relations with the accused/applicant can be held to be consensual relations despite the fact that she was minor in age at that time. Furthermore, the prosecutrix is an illiterate girl, without any legal assistance



and if now she wants to make a statement contrary to her statement under Section 164 CrPC and testimony in trial court, she would face serious consequences including prosecution. Therefore, I find no reason to speak to her. Besides, as mentioned above on last date also despite hearing of submissions of learned counsel for accused/applicant, no notice was issued to the State or the prosecutrix, because it was not found to be a fit case.

6. Today it is argued by learned counsel for accused/applicant that since the accused/applicant is not a threat to the prosecutrix and is not a flight risk and has no criminal antecedents, he be released on bail. It is further contended by learned counsel for accused/applicant that there is nothing on record of the trial court that the prosecutrix was minor in age at the time when she entered into sexual relations with the accused/applicant.

7. In response, learned prosecutor submits that apart from the present case, the accused/applicant is involved in two more cases, FIR No.273/2020 of PS Shahbad Dairy and FIR No.344/2020 of PS Shahbad Dairy. As regards the prosecutrix being minor in age, the date of birth record of prosecutrix has to be proved by the Principal of MCD Primary School, named in the chargesheet as one of the prosecution witnesses.

8. As regards the age of the prosecutrix, learned counsel for the accused/applicant seeks to refer to the cross examination of mother of prosecutrix. At this stage, minute analysis of evidence is not permissible in law. However, according to learned counsel for accused/applicant, the



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mother of the prosecutrix had mentioned the date of birth on approximate basis. As mentioned above, school records of prosecutrix collected during investigation will be proved by the competent witness during trial.

9. Considering the above circumstances, I do not find it a fit case to release the accused/applicant on bail. The bail application is dismissed.

**GIRISH KATHPALIA
(JUDGE)**

JULY 23, 2025/ry