



2026:DHC:4697



\$~2

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

%

Date of Decision: 25.05.2026

+ **BAIL APPLN. 1519/2026**

MS. ZAINAB KHATOON

.....Petitioner

Through: Mr. Zakir Raza, Advocate.

versus

THE STATE GOVT OF NCT OF DELHI

.....Respondent

Through: Mr. Hemant Mehla, APP for State
with IO/SI Ritu Singh.

Mr. A.S. Khan, Advocate for
prosecutrix with prosecutrix in
person.

CORAM: JUSTICE GIRISH KATHPALIA

JUDGMENT (ORAL)

1. The accused/applicant seeks anticipatory bail in case FIR No. 91/2026 of PS Dayalpur for offence under Section 64(1)/351/3(5) BNS and Section 6 of POCSO Act.

2. Status report was returned under objections but the same was not filed again.



2026:DHC:4697



3. I have heard learned counsel for accused/applicant and learned APP for State assisted by IO/SI Ritu Singh. I have also heard learned counsel for prosecutrix.

4. Broadly speaking, allegation against the accused/applicant is as follows. At the house of the accused/applicant lady, the prosecutrix, nearing the age of majority, used to go to learn the art of *mehendi*, and one M (*stated to be a Child in Conflict with Law*) also used to visit there. It is also alleged that the present accused/applicant used to assure the prosecutrix that she would get her married with M. On the fateful day (*date not specified*), when the prosecutrix was learning *mehendi* art, the present accused/applicant called M to her home and sent M in the room where the prosecutrix was sitting. Thereafter, the present accused/applicant bolted the door from outside and M forcibly carried out sexual intercourse with her. After that, the present accused/applicant unbolted the door from outside and made M run away. The present accused/applicant also threatened the prosecutrix if she disclosed about the incident before anyone. Subsequently on 17.02.2026, when mother of the prosecutrix was not at home, M reached her house and again raped her. Thereafter, on 27.02.2026 the prosecutrix lodged FIR.

5. Learned counsel for accused/applicant submits that the relationship between M and the prosecutrix was consensual one. It is also submitted that both of them were nearing the age of majority. It is submitted by learned counsel that the only role ascribed to the accused/applicant is that she bolted



2026:DHC:4697



the door from outside, leaving the prosecutrix and M alone in the room. Further, it is contended that since no date of the alleged incident has been disclosed, the accused/applicant be not made to undergo arrest.

6. Learned APP opposes the bail application and contends that allegation against the accused/applicant is very serious insofar as it is the accused/applicant only who encouraged the relationship between M and the prosecutrix. It is also contended that merely because M and prosecutrix had close relations, that does not justify forcible sexual intercourse.

7. Learned counsel for prosecutrix, also, strongly opposes the anticipatory bail application on the ground of severity of offence.

8. As observed on last date, the prosecutrix and the accused/applicant are residing in the same building. As further recorded on last date, till last hearing, the prosecutrix had not been medically examined. Subsequent to last date, medical examination of the prosecutrix was carried out and according to the same "*sexual assault cannot be ruled out*", but no parameters have been mentioned in the MLC, which made the doctor opine so vaguely that the sexual assault cannot be ruled out.

9. As described above, the role ascribed to the accused/applicant is that she bolted the door from outside, leaving the prosecutrix and M alone in the room to give them private space.



2026:DHC:4697



10. I am not oblivious that consent of the prosecutrix would be immaterial in view of her age of minority. But at the same, since the prosecutrix was nearing the age of majority, her version must be tested accordingly. In this regard, learned counsel for accused/applicant has handed over six photographs of the prosecutrix and M, which photographs are accepted across the board to be made part of record. Those photographs have been shown to learned prosecutor as well as to the prosecutrix and her counsel present in court. Admittedly, the persons depicted in these photographs are M and the prosecutrix. These photographs do not leave any doubt about their romantic relationship.

11. Of course, romantic relationship does not give license to forcible sexual intercourse. But so far as the present accused/applicant is concerned, going by these pictures and the kind of relationship M and the prosecutrix shared with each other, the role of the accused/applicant appears to be at the most, giving them some privacy in the room. *Prima facie*, there is no material at present to show that the accused/applicant was aware that M would forcibly carry out sexual intercourse with the prosecutrix.

12. Considering the above circumstances, especially the role ascribed to the accused/applicant, who is a lady, I do not find it a fit case to deprive her of liberty.

13. Therefore, the application is allowed and it is directed that in the



2026:DHC:4697



event of her arrest, the accused/applicant shall be released on bail, subject to her furnishing a personal bond in the sum of Rs. 10,000/- with one surety in the like amount to the satisfaction of the IO/SHO concerned. It is also directed that the accused/applicant shall joined investigation as and when directed in writing by the IO.

14. Of course, nothing observed in this order shall be read to the prejudice of either side at the final stage of the trial.

**GIRISH KATHPALIA
(JUDGE)**

MAY 25, 2026/ry