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

% *Date of Decision: 25.11.2026*

\# **CNR No. DLHC010251532026**

\+ **BAIL APPLN. 2103/2026**

ASHESH KUMAR .....Petitioner

Through: Ms. Nandita Rao, Sr. Advocate with Mr. Mandeep Baisla, Mr. Dhananjay Singh, Mr. Sourabh Soni, Mr. Kavesh Bidhur and Mr. Vansh, Advocates.

versus

STATE OF NCT OF DELHI .....Respondent

Through: Mr. Amit Ahlawat, APP for State with IO/SI Suresh.

CORAM: JUSTICE GIRISH KATHPALIA

J U D G M E N T (ORAL)

1. The accused/applicant seeks anticipatory bail in case FIR No. 150/2026 of PS Timarpur for offence under Section 74/75 BNS.

2. On last date also, the prosecutrix opted not to appear and same is the status today as well. The Investigating Officer/SI Suresh has produced before me, the original notice, whereby the prosecutrix was informed about today's hearing and was directed to appear. The said notice is accepted

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across the board, to be made part of record. It is submitted by Investigating Officer that today also, he has been trying to contact the prosecutrix but she is not picking the phone. It appears that prosecutrix does not want to oppose this anticipatory bail application.

3. The status report filed by police is already on record and I have heard learned senior counsel for accused/applicant as well as learned APP for State.

4. Broadly speaking, allegation against the accused/applicant, who is a practicing advocate, is that on the pretext of giving employment, he molested the prosecutrix in his car.

5. It is submitted by learned senior counsel that there is no cogent evidence collected against the accused/applicant despite the FIR being of 15.04.2026. It is further submitted that the accused/applicant has been fully cooperating in investigation, so there is no need to take him into custody. It is submitted that the accused/applicant had financial disputes with the employer of the prosecutrix and it is on that account that the present false FIR has been got registered. Learned senior counsel also submits that going by the manner in which the alleged incident has been narrated in the FIR, the allegations do not inspire confidence, in the sense that the prosecutrix "reluctantly" sat in the car and continued to travel with him over a long distance without raising any hue and cry. It is also submitted that the alleged

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incident took place on 11.04.2026, but the complaint turning into FIR was lodged on 15.04.2026, without explaining the delay.

6. On 29.05.2026, after perusal of investigation file, it was observed by this Court that the investigating officer did not try at all to locate CCTV cameras in the area despite the fact that the alleged incident occurred outside a club, which place generally has CCTV cameras installed. On the next date i.e., 20.08.2026, learned senior counsel for accused/applicant produced before me, four photographs allegedly depicting the alleged place of occurrence, which photographs clearly depict existence of CCTV cameras, but in paragraph 8 of the status report, the Investigating Officer had stated that there are no CCTV cameras. Those photographs were handed over to the Investigating Officer so that he could obtain CCTV footages from those cameras. But today, it is submitted by learned APP, on instructions of the Investigating Officer, that he could not retrieve footage of any of those CCTV cameras on account of passage of time. Had the investigating officer proceeded diligently and fairly, he could have obtained footages of those CCTV cameras before the coverage got erased.

7. Another vital aspect is that on 20.08.2026, learned APP submitted that there are certain WhatsApp chats between the accused/applicant and the prosecutrix which would show that he was constantly texting her even on the day of the alleged incident and subsequently, he also expressed remorse. On that day, learned senior counsel contended that those chats are forged

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ones and have been supplied by the prosecutrix to ensure that the accused/applicant goes to jail. On that day, the Investigating Officer stated that he had seized mobile phone of the accused/applicant, but the same did not contain those chats and on the other hand, the prosecutrix did not provide her phone on the pretext that the same was non-functional.

8. That being so, presently, the only material against the accused/applicant is the complaint of the prosecutrix, which was lodged after an unexplained delay of 04 days and her statement recorded under Section 183 BNSS. On the other hand, it appears that relevant evidence has not been collected from the concerned CCTV footages and the mobile phone of the prosecutrix. Even if it was non-functional, the Investigating Officer ought to have seized mobile phone of the prosecutrix and ought to have sent the same to FSL for retrieval of data. As mentioned above, the IO did not find any incriminating material in mobile phone of accused/applicant.

9. In fact, according to paragraphs 9 and 10 of the status report, the accused/applicant is neither owner nor co-owner nor partner nor proprietor nor even an employee of the salon in which the accused/applicant allegedly offered job to the prosecutrix. There is no request made by the IO for custodial interrogation of the accused/applicant.

10. Considering the overall circumstances as described above, I find no reason to deprive the accused/applicant liberty.

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11. The application is allowed and it is directed that in the event of his arrest, the accused/applicant shall be released on bail, subject to his furnishing a personal bond in the sum of Rs. 15,000/- with one surety in the like amount to the satisfaction of the IO/SHO concerned.

12. The accused/applicant shall join investigation as and when directed in writing by the Investigating Officer and shall not contact the prosecutrix in any manner whatsoever.

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GIRISH KATHPALIA
(JUDGE)

NOVEMBER 25, 2026/*ry*

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