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

% *Date of Decision: 27.11.2026*

\# **CNR No. DLHC010459042026**

\+ **BAIL APPLN. 4046/2026**

LUCKY ALI .....Petitioner

Through: Mr. Arjun Singh Khurana, Advocate

versus

STATE GOVT. OF NCT OF DELHI .....Respondent

Through: Ms. Manjeet Arya, APP for State with SI Rashmi and Inspector Aadesh Kumar
Mr. Sanjeev Kumar Baliyan, Advocate for prosecutrix

CORAM: JUSTICE GIRISH KATHPALIA

J U D G M E N T (ORAL)

1. The accused/applicant seeks regular bail in case FIR No. 196/2026 of PS Vijay Vihar for offence under Section 64(1)/351 BNS.

2. In furtherance of last order, I have heard learned counsel for accused/applicant as well as learned APP for State and learned legal aid counsel for prosecutrix.

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3. Broadly speaking, prosecution case is that the tempo in which the prosecutrix was allegedly raped is owned by mother of the accused/applicant.

4. Learned counsel for accused/applicant takes me through FIR and points out that according to the same, the alleged rape took place in a park and not in any tempo. It is submitted that the story of tempo was added by the prosecutrix only in her statement under Section 183 BNSS. It is further submitted that there is no evidence that the accused/applicant was in any manner, even slightly aware about the alleged incident. Learned counsel for accused/applicant also contends that perusal of FIR itself shows that the prosecutrix indulged in consensual sex with the co-accused Vijay.

5. Learned APP for State, assisted by Investigating Officer/SI Rashmi, submits that the accused/applicant was fully aware that his tempo would be used for the offence and he supplied the same, so he does not deserve bail.

6. Learned counsel for prosecutrix also strongly opposes the bail application, taking me through the status report and contending that the CDR connectivity between the co-accused Vijay and the present accused/applicant, as well as his presence on the spot shows his complicity.

7. As mentioned above, according to the FIR, the alleged rape occurred in a park. Keeping in the mind the limited role ascribed to the accused/applicant, I do not find it fit to opine as to whether the FIR convincingly makes out a case of rape or it was consensual sex. But

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strangely, in the statement under Section 183 BNSS, the prosecutrix alleges that she was raped in the tempo. More significantly, if that statement under Section 183 BNSS is believed, in the same statement, prosecutrix also stated that the present accused/applicant did no harm to her.

8. As regards telephonic connectivity, in her statement under Section 183 BNSS, the prosecutrix stated that the co-accused Vijay arranged the tempo by calling up Deepak and not the present accused/applicant.

9. Considering the above circumstances, I do not find any reason to deprive further liberty to the accused/applicant. Therefore, the bail application is allowed and accused/applicant is directed to be released on bail subject to his furnishing a personal bond in the sum of Rs.20,000/- with one surety in the like amount to the satisfaction of the Trial Court/Duty Magistrate.

10. A copy of this order be immediately transmitted to the concerned Jail Superintendent for informing the accused/applicant.

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GIRISH KATHPALIA
(JUDGE)

NOVEMBER 27, 2026/*as*

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