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

**Date of Decision: 14.07.2025**

+ BAIL APPLN. 960/2025

MINTU PASWAN

.....Petitioner

Through: Mr. Himanshu Makkar, Adv.

versus

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

Through: Mr. Raghuinder Verma, APP  
for State with SI Neelam, PS  
Swaroop Nagar, Delhi.

**CORAM:**

**HON'BLE MS. JUSTICE SHALINDER KAUR**

**SHALINDER KAUR, J (ORAL)**

1. By way of the present petition under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023, the petitioner seeks grant of regular bail in FIR No. 383/2023 dated 03.06.2023 for offence under Sections 328, 377 of the Indian Penal Code, 1860 (IPC) and Section 4 of the Protection of Children from Sexual Offence Act, 2012 (POCSO) at Police Station Swaroop Nagar, Delhi.

2. It is the case of the prosecution that an information was received *vide* DD No. 51A on 03.06.2023 regarding sexual assault on a male child. The victim, 'A', aged 17 years, was medically examined at BJRM Hospital *vide* MLC No. 228416 dated 03.06.2023, wherein



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the doctor noted: "*A/H/O Sexual Assault (Unnatural) as told by B/B & patient himself.*"

3. The statement of the victim 'A' was recorded, wherein he alleged that Mintu (the petitioner herein) took him to the house of his sister, where he was given *lassi*. Upon consuming the said *lassi*, he became unconscious. On regaining consciousness, he found that his mouth had been tied with a cloth, he was without any clothes on his body and sensed severe pain.

4. Based on the contents of the said statement and the medical report, the present FIR came to be registered, and investigation was taken up by the then Investigating Officer.

5. The statement of the victim 'A' under Section 164 Criminal Procedure Code, 1973 was recorded, wherein he corroborated the allegations as set out in the FIR. Further, on 30.06.2023, an ossification test of the victim 'A' was conducted at BSA Hospital, and as per the bone age report, the age of the victim was opined to be "*more than 16 years and less than 17 years*".

6. During the course of investigation, the MLC of the victim was submitted to BJRM Hospital for final opinion, wherein the doctor opined that "*as per initial findings noted, the possibility of sexual abuse cannot be ruled out.*" The FSL report of the victim's blood sample, opined that "TLC, GC-HS, and GC-MS examination, ethyl and methyl alcohol, alkaloids, barbiturates, tranquilizers, and pesticides could not be detected."



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7. It is further stated that the petitioner was not cooperating with the investigation and was evading arrest. Consequently, Non-Bailable Warrants were issued against him on 15.07.2023. The Charge-Sheet under Section 21 of the POCSO Act was filed against co-accused Chandni and Inder Kumar Paswan, while the petitioner was shown in Column No. 12.

8. On 07.08.2023, the petitioner surrendered before the Court. He was interrogated and was formally arrested. Pursuant thereto, he was remanded to judicial custody.

9. Subsequently, on 02.09.2023, a potency test of the petitioner was conducted at BSA Hospital *vide* Clinical Examination No. 123/2023 dated 02.09.2023, wherein the examining doctor recorded that "*there is nothing to suggest that the person examined is incapable of performing sexual intercourse.*"

10. Upon conclusion of the investigation, a supplementary Charge-Sheet under Sections 328 and 377 of the IPC and Section 4 of the POCSO Act was filed against the petitioner.

11. On 30.11.2023, the learned Additional Sessions Judge, Rohini Courts framed Charges against the petitioner under Sections 367, 328, and 377 of the IPC and Section 5(k) and 6 of the POCSO Act.

12 (i) The learned counsel for the petitioner, while seeking bail for the petitioner, submits that the offence allegedly occurred on 01.06.2023 and the FIR was registered belatedly on 03.06.2023.

12 (ii) He submits that PW-3, aunt of victim and PW-7, cousin of victim have not supported the case of prosecution and deposed



that two to three days after the lodging of the FIR, the victim disclosed to them that no such incident had taken place with him and the petitioner, and got involved into a fight that night over some issue, which led the victim to make the present allegations against the petitioner.

- 12 (iii) The learned counsel submits that even otherwise all the material public witnesses have already been examined, and the remaining witnesses are either formal in nature or police officials. Thus, there exists no apprehension of the petitioner influencing any witness in the event he is released on bail. He contends that the investigation in the matter stands concluded and, in the facts and circumstances of the present case, no fruitful purpose would be served by continued incarceration of the petitioner.
- 12 (iv) He contends that there are several discrepancies in the statements of the victim and his family members who have already been examined during the course of trial.
- 12 (v) The learned counsel submits that nothing incriminating has been recovered from or at the instance of the petitioner, which, it is urged, further supports the plea of petitioner that he is innocent. Furthermore, the FSL report of the blood sample of the victim is not against the petitioner.
- 12 (vi) Lastly, he submits that submits that the petitioner is a young individual with clean antecedents, therefore, he be admitted on bail.



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13 (i) The learned APP for the State vehemently opposes the bail application, contending that the petitioner has committed a heinous offence and he is a flight risk to the petitioner, he contends, had previously not joined the investigation and was absconding.

13 (ii) He further submits that out of 18 prosecution witnesses, 11 witnesses have already been examined, and the witnesses have supported the case of the prosecution.

14. Having heard the learned counsel for the petitioner as well as the learned APP for the State and upon perusal of the record, it emerges that it is the case of the prosecution, on 01.06.2023, the petitioner took the victim 'A' to his sister's residence, where he allegedly gave *lassi* to the victim. After consuming the *lassi*, the victim fell unconscious and upon regaining consciousness, found that his mouth was tied with a cloth, he was without any clothes on his body and was experiencing severe pain.

15. Undisputedly, the FSL report of the victim's blood sample revealed that no chemicals were detected and it does not go against the petitioner, nonetheless, the same is a matter of trial and cannot be considered at this stage.

16. No doubt, the FIR was registered two days after the incident i.e., on 03.06.2023, nonetheless, in case of sexual offences, a possibility cannot be ruled out that victims of sexual assault may hesitate to immediately report sexual assault on account of emotional facets, therefore a delay in lodging FIR is not per se fatal to



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prosecution case which can be explained by the prosecution. However, the MLC report dated 03.06.2023 supports the prosecution's case. The said report has noted, multiple abrasion in the anal canal and according to status report the concerned doctor has opined "*as per initial findings noted, the possibility of sexual abuse cannot be ruled out*".

17. Furthermore, the victim has corroborated the incident in his statement recorded under Section 164 CrPC and the prosecution witnesses have supported the prosecution's case.

18. As such, there is no delay in the progress of the trial, as 11 out of 18 prosecution witnesses have already been examined till date, and the remaining witnesses are official/police witnesses. As per the Nominal Roll, the petitioner is in custody since 07.08.2023.

19. Moreso, a possibility of the petitioner being a flight risk cannot be ruled out as he had previously failed to join the investigation, leading to the issuance of non-bailable warrants against him.

20. In view of the above and considering the nature of the offence, the bail application of the petitioner is hereby dismissed.

**SHALINDER KAUR, J**

**JULY 14, 2025/SK**