



2025:DHC:8149



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

Reserved on: 03.09.2025
Date of Decision: 16.09.2025

+ **BAIL APPLN. 3775/2024, CRL.M.A. 22707/2025 &
CRL.M.A. 22708/2025**

DEEPAK YADAV

.....Petitioner

Through: Ms. Mausumi Mishra and
Mr. Danish Saifi, Advs.

versus

STATE OF NCT OF DELHI

.....Respondent

Through: Mr. Satish Kumar, APP for
State with Ms. Puja Mann and Ms. Garima,
Advs.

SI Asha, PS Sarita Vihar

CORAM:

HON'BLE MR. JUSTICE AJAY DIGPAUL

J U D G M E N T

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1. The present bail application has been filed on behalf of the petitioner/applicant/accused, under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023¹ read with Section 439 of the Code of Criminal procedure, 1973², seeking regular bail in FIR No. 33/2024.

Factual Matrix

2. The instant case arises out of FIR No. 33/2024 registered at P.S. Sarita Vihar, South-East District, Delhi. The FIR is dated 26.01.2024 and was registered at 19:35 hrs on the basis of a written complaint by R.B/father of the victim.

¹ Hereinafter "BNSS"

² Hereinafter "CrPC"



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3. The occurrence alleged is of 25.01.2024 at about 08:05 hrs when the minor daughter C.B./victim (aged almost about 14 years & 11 months) left home for school in uniform and allegedly did not return. The initial offence invoked was Section 363 of the Indian Penal Code, 1860³. Apprehending that an unknown person had enticed his daughter away, the complainant approached the police on 26.01.2024, whereupon the present FIR was registered.

4. During investigation, the police arrested accused Deepak Yadav (petitioner in the present bail matter) on 09.03.2024. He has remained in judicial custody from that date. The charge-sheet was filed on 08.05.2024. The charge-sheet frames offences under Sections 363/376/344/506 of the IPC and Section 6 of the Protection of Children from Sexual Offences Act, 2012⁴ against Deepak Yadav. The same charge-sheet also mentions Section 21 of the POCSO Act against co-accused persons i.e., Vijay Singh @ Lucky (friend of the petitioner), Rahul Yadav (brother of the petitioner) and Suman Yadav (sister -in-law of the petitioner).

5. The first bail application filed by the applicant before the Court of the learned ASJ was dismissed on 06.05.2024. A second bail application was moved on 28.05.2024 but was withdrawn on 05.07.2024. The present application has thereafter been filed before this Court.

6. During the course of proceedings, applications were filed by the petitioner under Section 528 of the BNSS for placing additional documents on record, and under Section 63 of the Bharatiya Sakshya Adhiniyam, 2023 for filing electronic material such as

³ Hereinafter "IPC"

⁴ Hereinafter "POCSO Act"



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WhatsApp/Instagram chats. These applications were allowed, and the documents have been taken on record.

7. It is also recorded that charges are yet to be framed before the learned Trial Court.

Submissions on behalf of the petitioner

8. Learned counsel appearing on behalf of the petitioner has argued that the applicant is innocent and has been falsely implicated in the present case. It is submitted that there is a history of prior friendship and intimacy between the prosecutrix and the petitioner, which is borne out from the record of WhatsApp/Instagram chats exchanged between them. It is contended that the relationship between the parties was consensual, and the prosecutrix accompanied the petitioner of her own volition.

9. It is further submitted that the petitioner has remained in custody since 09.03.2024 and has undergone incarceration for more than one year. The charge-sheet has already been filed on 08.05.2024, and there is no further requirement of custodial interrogation. Learned counsel contends that the trial is yet to commence, charges are still to be framed, and the likelihood of early conclusion of trial is remote. It is argued that continued detention of the petitioner would serve no fruitful purpose.

10. It has also been urged that the petitioner is a permanent resident of Delhi, belonging to a settled family, and there is no possibility of his absconding or tampering with the evidence. Reliance has been placed on the principle that bail is the rule and jail is the exception. Learned counsel has further submitted that the petitioner is willing to abide by any conditions imposed by this Court. Thus, it is prayed that



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the present bail application may be allowed, and the reliefs be granted, as prayed for.

Submissions on behalf of the State and the Complainant

11. *Per Contra*, learned APP for the State, assisted by the learned counsel for the complainant, has opposed the grant of bail. It is submitted that the FIR was lodged on the complaint of the father of the prosecutrix, who clearly alleged that his minor daughter, aged less than 15 years, went missing on 25.01.2024 and was later found in the company of the petitioner.

12. It is further argued that the statement of the prosecutrix recorded under Section 164 of the CrPC specifically implicates the petitioner and attributes commission of sexual assault upon her. The medical examination of the prosecutrix and other material collected during investigation also support the prosecution case. It is argued that the victim is a minor under the age of consent, and therefore, even assuming voluntary participation, the same has no legal significance in view of Section 375 of the IPC and Section 6 of the POCSO Act.

13. Learned APP further submits that the offences alleged are grave in nature, being punishable with stringent sentences, including imprisonment for life. It is contended that releasing the petitioner on bail at this stage would send a wrong signal to society and may also cause trauma to the victim. The possibility of the petitioner influencing witnesses, particularly the prosecutrix who resides in the same locality, cannot be ruled out.

14. Learned counsel for the complainant has additionally urged that the petitioner, if released, may attempt to misuse liberty and pressurize the prosecutrix or her family, thereby obstructing the course of justice. It has been submitted that no ground for bail is made out in



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the facts and circumstances of the present case. Thus, it is prayed that the present bail application may be dismissed.

Analysis

15. Heard the parties and perused the record.

16. The governing principles of grant of bail are well settled. While considering regular bail the Court must examine, *inter alia*, the nature and gravity of the accusation, the severity of the punishment on conviction, the *prima facie* support for the charge in the material collected, the likelihood of the accused fleeing justice or tampering with evidence or witnesses, and the stage of the proceedings as noted by the Hon'ble Supreme Court in various judgments.

17. The instant FIR was registered on 26.01.2024 on the complaint of the father of the victim that his minor daughter left home for school on 25.01.2024 at about 08:05 hrs in uniform and did not return. On the basis of the complaint, Section 363 of the IPC was invoked; investigation then followed.

18. These particulars are not in dispute. During investigation, the petitioner Deepak Yadav was arrested on 09.03.2024 and has remained in judicial custody from that date. The police traced Deepak Yadav to a rented accommodation at Navapur Dara Nagar, Varanasi (U.P.), where the raiding team found him present. The victim was recovered the previous day (08.03.2024) from Saraiya, Post Bhadkin, District Jaunpur (U.P.), which is the accused's native place.

19. Charge-sheet dated 08.05.2024 has been filed naming the petitioner for offences under Sections 363/376/344/506 of the IPC and Section 6 of the POCSO Act. The charge-sheet also notices certain other persons in relation to Section 21 of the POCSO Act.



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20. The investigation material shows that on 25.01.2024, while the child was on her way to school in uniform, she was intercepted and taken away. In her Section 161 of the CrPC statement recorded on 09.03.2024, the victim stated that the accused kidnapped her from outside the campus of Amar Singh Public School, Aali Vihar and took her by motorcycle to an unknown hotel at Lucknow, where she was allegedly sexually assaulted in the intervening night of 25/26.01.2024. Further, in the statement recorded under Section 164 of the CrPC, the victim has specifically stated that she used to address the petitioner as '*chacha*'. This in itself is a factor which cannot be outweighed by the submissions advanced by the petitioner as regards to alleged consent by the victim. It also reflects upon the kind of relation which the victim had with the petitioner where she had put her trust and faith in him. However, looking at the allegations made against the petitioner and the incriminating factors brought on record, the petitioner's conduct not only corroded the said faith and trust, but also violated the victim's sense of familiarity she had towards the petitioner.

21. On 26.01.2024, they moved to Rampur, where they met Lucky @ Vijay, who arranged a room. The victim stated that the accused kept her locked there. Thereafter, on 03/04.032024, the accused and his brother Rahul Yadav took her to their native place at Banaras (U.P.), where she met Rahul's wife; the victim added that when she was at the accused's native place, the accused again sexually assaulted her.

22. The MLC of the victim, prepared on 09.03.2024, records the assault history as stated hereinabove. It states that the victim was kidnapped on 25.01.2024 at 08:40 a.m. on the way to school, taken to Lucknow where she had one non-consensual sexual intercourse at



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12:30 a.m. on 26.01.2024, then taken to Banaras for two weeks, then to the home of Vijay Singh for another 15 days, and lastly to the accused's home where there were two acts of non-consensual sexual intercourse on 03.03.2024 at 11:00 p.m. Sampling was not done as the victim was not willing, the last assault being beyond 72 hours.

23. Further, as per the investigation, a technical analysis trail revealed the accused using hotspot near Navapur Dara Nagar, Varanasi (U.P.) and he was found present at a rented accommodation there. The raiding team, which also included the victim's parents, detained him and the petitioner allegedly stated the girl had gone to his village (Saraiya, Bhadkhin, Jaunpur), after which the team reached the native place and the victim was found present.

24. The foregoing sequence, i.e., alleged abduction from the school vicinity at Aali Vihar on 25.01.2024, movement to Lucknow with an overnight hotel stay and sexual assault, shifting to Rampur where confinement is alleged, thereafter transport to Banaras/Varanasi for an extended period, then to the friend's house (Vijay Singh), and finally to the accused's home with a further assault on 03.03.2024, is consistently reflected in the victim's statement recorded under Section 161 of the CrPC and the MLC, and is also buttressed by the technical analysis (used to trace the accused). This creates a coherent *prima facie* picture of continuous movement, restraint and sexual abuse across multiple locations over a protracted period.

25. The weapon-threat (knife) asserted by the victim during investigation, the late-night arrival in Lucknow, and the child's inability to identify hotel addresses due to fear and circumstances are not, at this stage, exculpatory as they may be contextual explanations for memory gaps and do not erode the overall chain. Further, the birth



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certificate clinches minority, rendering any claim of consent legally irrelevant under Section 375 of the IPC read with Section 6 of the POCSO Act.

26. Taken together, these features supply *prima facie* support for the charges under Sections 363/376/344/506 of the IPC and Section 6 of the POCSO Act and also explain the invocation of Section 21 of the POCSO Act against co-accused persons.

27. At the bail stage, the Court is not to conduct a mini trial. The consistency between the victim's account, the medical history, the technical tracing to Navapur Dara Nagar, Varanasi, the recovery at Saraiya, Bhadkhin (Jaunpur), and the seizure of the motorcycle used is sufficient to deny the prayer for release.

28. The plea that chats show prior intimacy or that the prosecutrix accompanied the petitioner of her own accord does not assist the petitioner at this stage. The prosecutrix is a child.

29. The statutory framework under the POCSO Act renders a child's ostensible "consent" legally irrelevant. The Hon'ble Supreme Court has consistently underscored that in sexual offences against children, the law treats consent as immaterial, and courts must approach such allegations with the seriousness they demand.

30. The chats do not by themselves, undermine the statutory rigor or the *prima facie* case reflected in the charge-sheet and the victim's statements. The apprehension of witness influence is not fanciful. The FIR and the memo of parties record the complainant's address and the petitioner's address, both within the same locality under P.S. - Sarita Vihar.

31. In such circumstances, and particularly in a child sexual-offence case where the prosecutrix is a key witness, the risk of proximity



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cannot be discounted. The Court must weigh this factor with caution while deciding bail.

32. On the argument of prolonged custody since 09.03.2024 and the delay in commencement of trial, this Court is of the view that personal liberty is valuable and that bail is the rule. At the same time, the Hon'ble Supreme Court has clarified that length of custody by itself does not mandate bail where the accusations are grave, the punishment severe, a *prima facie* case exists, and there is a reasonable possibility of the accused influencing witnesses. In this backdrop, the balance presently tilts against release.

33. This Court has also considered the petitioner's personal circumstances as projected in the bail application (including his local roots and family responsibilities). Such factors, while not irrelevant, cannot outweigh the combined effect of (i) the nature of the accusations and the statutory scheme protecting children, (ii) the sections invoked (Sections 376 of the IPC and 6 of the POCSO, both carrying stringent punishment), (iii) the *prima facie* material in the form of the charge-sheet and statements, and (iv) the proximity-based risk of interference with the victim/witnesses.

Conclusion

34. In view of the foregoing discussion and applying the parameters laid down by the Hon'ble Supreme Court, this Court is not persuaded to exercise discretion in favour of the petitioner at this stage.

35. The seriousness of the allegations involving a child, the statutory position that a minor's consent is legally inconsequential, the *prima facie* support for the charges gathered in investigation (including the Section 164 of CrPC statement and the MLC placed on record), and the real likelihood of influence over the victim/witnesses



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given the parties' proximity, cumulatively outweigh the factors urged for release.

36. The instant bail application is, therefore, dismissed. Pending application(s), if any, stands disposed of.

37. It is made clear that nothing stated herein above shall be construed as an opinion on the merits of the case, which will be examined independently by the learned Trial Court.

38. Considering the custody period of the petitioner and that the charges are yet to be framed, the learned Trial Court is requested to expedite the trial in the present case. It is also expected, at the same time, from the petitioner that he shall co-operate in the speedy trial.

AJAY DIGPAUL, J.

SEPTEMBER 16, 2025/ar/ryp