



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

**Reserved on: 08<sup>th</sup> September, 2025**  
**Pronounced on: 12<sup>th</sup> September, 2025**

+ **BAIL APPLN. 3306/2024**

SHAVETA KATARIA .....Petitioner

Through: Mr. Rajesh Anand, Mr. Jaypreet Singh, Mr. Pawan Yadav and Ms. Radha, Advocates.

versus

STATE GOVT OF NCT OF DELHI & ANR. ....Respondents

Through: Mr. Mukesh Kumar, APP for the State.  
 PSI Guddi, PS: Rani Bagh.  
 Mr. Arun Khatri, Ms. Shelly Dixit, Ms. Anisha Maan, Ms. Tracy Sebastian and Mr. Yogesh Gehlaut, Advocates for Complainant.

+ **BAIL APPLN. 3339/2024 & CRL.M.A. 23584/2025**

ASHISH KANSAL .....Petitioner

Through: Mr. Rajesh Anand, Mr. Jaypreet Singh, Mr. Pawan Yadav and Ms. Radha, Advocates.

versus

STATE GOVT OF NCT OF DELHI & ANR. ....Respondents

Through: Mr. Mukesh Kumar, APP for the State.  
 PSI Guddi, PS: Rani Bagh.  
 Mr. Arun Khatri, Ms. Shelly Dixit, Ms. Anisha Maan, Ms. Tracy



Sebastian and Mr. Yogesh Gehlaut,  
Advocates for Complainant.

**CORAM:**  
**HON'BLE MR. JUSTICE SANJEEV NARULA**

**JUDGMENT**

**SANJEEV NARULA, J.:**

1. These applications under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023<sup>1</sup> (corresponding to Section 439 of the Code of Criminal Procedure, 1973<sup>2</sup>) seek regular bail in the proceedings arising from FIR No. 303/2024 dated 28<sup>th</sup> May, 2024, registered at P.S. Rani Bagh for the offences punishable under Sections 376, 376(c), 120B, 354, 354(D), 328, 323 and 506 of the Indian Penal Code, 1860<sup>3</sup> read with Sections 6, 10 and 17 of the Protection of Children from Sexual Offences Act, 2012<sup>4</sup>.

**FACTUAL MATRIX**

2. The case of the prosecution, in brief, is as follows:

2.1 The FIR was registered on a complaint of the prosecutrix, a girl child aged 14 years. In her complaint, she stated that the Applicants, Shaveta Kataria and Ashish Kansal, along with co-accused Shekhar Kansal, had been acquainted with her family for the past ten years. During this period, it is alleged that co-accused Shekhar Kansal administered intoxicating substances to her, subjected her to sexual assault including acts of molestation and digital penetration, and issued threats to her life.

2.2 The prosecutrix thereafter underwent counselling by a DCW

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<sup>1</sup> "BNSS"

<sup>2</sup> "CrPC"

<sup>3</sup> "IPC"



counsellor, and her medical examination was conducted at Bhagwan Mahavir Hospital, Pitampura, Delhi. The MLC records allegations of sexual assault against Shekhar Kansal and his younger brother, Ashish Kansal.

2.3 The Prosecutrix disclosed that Shekhar had introduced himself to her family as a spiritual “baba”, claiming to possess special powers to bless devotees and resolve their life’s problems. Her family, believing in these claims, reposed blind faith in him and would bow down before him. Exploiting this trust, Shekhar is alleged to have administered cigarettes and *prashad* laced with intoxicants to the family. Under such influence, he would, on a regular basis, touch the prosecutrix inappropriately on her neck, face, lower back, and private parts. It is further alleged that the applicant Shaveta Kataria coerced the prosecutrix to engage in inappropriate activities with Shekhar and to consume the said *prashad*. Allegations have also been levelled that Ashish Kansal similarly assaulted the prosecutrix on multiple occasions.

2.4. In or about December 2023, Ashish Kansal allegedly began making physical advances towards the prosecutrix. He would hug her in a manner that made her distinctly uncomfortable and, when she attempted to resist, he is said to have touched her back, shoulders, and face against her will. On one occasion, when she was alone with him in a car while out to purchase an item, he allegedly touched her on her thighs, back, and chest. It is further alleged that he frequently addressed her in crude and sexually inappropriate terms.

2.5. The prosecution also asserts that the accused had unhindered access to the prosecutrix’s mobile phone and threatened her that, if she spoke out, her

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<sup>4</sup> “POCSO Act”



photographs and videos would be circulated. In addition, it is alleged that pressure was brought to bear on the prosecutrix's father, who was coerced into transferring money into the accounts of the accused under unspecified pretexts.

2.6. The Applicants, along with co-accused Shekhar Kansal, were arrested on 31<sup>st</sup> May, 2024. Upon completion of investigation, a chargesheet was filed on 25<sup>th</sup> July, 2024, under Sections 120B, 354D, 328, 323 and 506 of IPC read with Section 17 of POCSO Act against Shaveta Kataria; and under Sections 120B, 354, 354D, 328 and 506 of IPC read with Sections 10 and 17 of POCSO Act against Ashish Kansal.

3. Both the Applicants, Shaveta Kataria and Ashish Kansal, initially approached the Sessions Court seeking grant of regular bail. Their applications were dismissed by orders dated 6<sup>th</sup> August, 2024 and 2<sup>nd</sup> September, 2024, respectively.

4. Thereafter, by a common order dated 26<sup>th</sup> November, 2024, a coordinate bench of this Court directed the release of both Applicants on regular bail.

5. The Complainant challenged the abovementioned order before the Supreme Court. By a common order dated 15<sup>th</sup> July, 2025, the Supreme Court set aside the order dated 26<sup>th</sup> November, 2024 and remanded both applications to this Court for fresh consideration. While doing so, the Supreme Court specifically observed that the High Court had not furnished adequate reasons for granting bail in a case involving such serious allegations under the IPC and POCSO Act. At the same time, the Supreme Court directed that, until disposal of the applications, no coercive steps shall be taken against the Applicants. For ease of reference, the relevant portions



of the order dated 15<sup>th</sup> July, 2025 are extracted below:

*“Leave granted.*

2. *The appellant is the complainant and the father of the alleged minor victim. Being aggrieved by the order dated 26.11.2024 passed in Bail Application Nos.3339/2024 and 3306/2024 by the High Court of Delhi by which the High Court has granted the relief of bail to the respondent-accused(s), subject to certain terms and conditions, the complainant is before this Court.*

3. *We have heard learned counsel for the appellant and learned ASG; learned senior counsel appearing for the respondent-State and learned counsel for the respondent-accused(s) and perused the material on record.*

4. *During the course of submissions, appellant’s counsel drew our attention to the tenor of the impugned order and contended that while granting the relief of bail in a case where serious offences have been alleged against the accused vis-a-vis the minor victim, the High Court has failed to record any reason for doing so.*

5. *In this regard, our attention was drawn to ‘paragraph 11’ of the impugned order to contend that the High Court has in fact found fault with the contents of the FIR so as to grant relief to the respondent-accused(s). He submitted that on a reading of the statement of the minor victim under Section 164 of the Criminal Procedure Code, 1973 and having regard to the serious nature of the crime alleged against the accused, the High Court ought not to have granted the relief of bail to the respondent-accused(s). He, therefore, submitted that the impugned order may be set-aside and the bail granted to the respondent-accused(s) may be cancelled.*

6. *Learned senior counsel and learned ASG appearing for the respondent-State also supported the submissions of the learned counsel for the appellant herein. She contended that having regard to the fact that the victim is a minor girl child, the allegations against the accused are serious and therefore the High Court ought to have been more cautious in considering the case of the respondent-accused(s).*

7. *Per contra, learned counsel for the respondent-accused(s) supported the impugned order and contended that the accused have been enjoying the relief of the bail order since November 2024, that there has been no violation of any of the terms and conditions of the bail; that they have been cooperating with the Sessions Court inasmuch as they have been appearing on all dates of hearing. Hence, there is no merit in these appeals.*

8. *We have considered the arguments advanced at the bar in light of the facts of the present case and in light of the impugned order. We note that the allegations made against the respondent-accused(s) in FIR No.303/2024 dated 28.05.2024 are under Sections 120B, 323, 328, 354, 354D, 376, 376(C) and 506 of the Indian Penal Code and Sections 6, 10 and 17 of the Protection of Children from Sexual Offences Act, 2012. The respondent-accused were remanded to judicial custody on 02.06.2024 when they were*



*arrested from Khanauri Mandi, Punjab from the house of accused No.1. The chargesheet was filed on 24.07.2024. The investigation has been carried out and since respondent-accused(s) were arrested they sought for relief of bail before the Trial Court which was dismissed. Being aggrieved by the order of the Trial Court, the respondent-accused(s) preferred their bail applications before the High Court.*

9. *We have perused the impugned order passed by the High Court by granting the relief of bail. We note that while the High Court has recorded the submissions of the learned counsel for the respective parties at length has given reason only in 'paragraph 11' for the purpose of granting the relief of bail. For immediate reference, we extract 'paragraph 11' of the impugned order as under:*

*"11. The complaint being filed by the victim in this case on the basis of which criminal proceedings were initiated is meticulously being made with a subject and makes leveling serious allegations against the petitioners. However, the complaint is silent about the time period during which the offence was committed except that the complaint dated 24.05.2024, the complainant has stated that this had been happening for the last five-six months. Except this, there is no specific date and time of any alleged incident, if we compare this testimony with the statement recorded under Section 164 Cr.P.C. which was recorded on 29.05.2024, the victim gave the alleged time of offence as only in November, 2023 and December, 2023. This is an apparently marked contradictions. The allegations against Shaveta Kataria is only regarding giving intoxicating consumable and abatement of offence, the allegations against Ashish Kansal is that he also started doing the same thing which allegedly Shekhar Kansal is doing. The Court has to restrain itself to make any comment on the merits of the case and it may prejudice the parties."*

10. *On a perusal of the same, we find that the reasons assigned thereunder are not in tandem with the relief that was actually sought for and the relief that was granted to the respondent-accused(s).*

11. *In the circumstances, we find that even though several conditions may have been imposed while granting bail, we are of the view that the High Court ought to have considered the matter(s) from all perspectives and as to whether the accused were entitled to the relief of bail.*

12. *In the circumstances, we find that the ends of justice would be met in the instant cases if the impugned order is set aside and the matters are remanded to the High Court for reconsideration of the bail applications made by the respondents before the High Court.*

13. *Since we are remanding the matter to the High Court, we request the High Court to dispose of the bail applications at the earliest and within a period of one month from first date of hearing. For that purpose, the*



*parties shall appear in-person or through their respective counsel before the High Court on 23.07.2025.*

14. *Since we have requested the High Court to dispose of the bail applications in a time-bound manner and bearing in mind the fact that the respondent-accused(s) had the benefit of the impugned order, we direct that no coercive steps shall be taken till the disposal of the bail applications by the High Court.*

15. *However, the respondent-accused(s) shall cooperate with the Sessions Court and shall appear on all dates of hearings when they are required to do so. The reconsideration of their matters by the High Court would not come in the way of the Sessions Court's proceedings in the matters.*

16. *The bonds executed by the respondent-accused(s) shall remain till the disposal of the applications filed by the respondent-accused(s) herein by the High Court.*

*These appeals are disposed of in the aforesaid terms.*

*Pending application(s), if any, shall stand disposed of."*

6. The present applications have been placed before this Court for reconsideration on merits, pursuant to the directions of the Supreme Court.

### **CONTENTIONS OF THE APPLICANTS**

7. Mr. Rajesh Anand, counsel for the Applicants, in support of the prayer for grant of regular bail, advances the following submissions:

#### **False Implication and Motive:**

7.1. The Applicants have been falsely implicated and have already remained in custody for over five and a half months. The investigation now stands concluded, and a chargesheet was filed on 25<sup>th</sup> July, 2024. With the case at the stage of arguments on charge, the trial is likely to be protracted, warranting release of the Applicants on bail pending its conclusion.

7.2. There exists a background of financial dealings and disputes between the father of the prosecutrix and the applicant Shaveta Kataria. Shaveta herself had previously been subjected to harassment, blackmail, and sexual exploitation at the hands of the complainant's father. In this backdrop, the



subject FIR is filed with a *mala fide* intent, engineered to exert pressure in connection with those disputes rather than a genuine prosecution of crime.

7.3. The complaint dated 24<sup>th</sup> May, 2024, which forms the basis of the FIR, is a two-page typed document bearing the purported signature of the 14-year-old prosecutrix. The language, structure, and level of detail in the complaint are incongruous with the age and educational level of the minor, suggesting the contents were drafted by an adult and not by the child herself.

*Delay and Contradictions:*

7.4. There is a significant and unexplained delay in reporting the alleged incidents. Although the complaint was lodged on 25<sup>th</sup> May, 2024, the prosecutrix's statement under Section 164 CrPC shifted the timeline of the alleged incidents to November-December, 2023, indicating a gap of nearly five months, casting doubt on the spontaneity and reliability of the allegations. No inquiry into this delay has been undertaken by the investigating agency.

7.5. There are material contradictions between the statements of the prosecutrix and her parents. Initially, she alleged that the incidents took place in the months immediately preceding the complaint, but in her later statement, she placed them in November-December 2023. The mother of the prosecutrix stated that the father became aware of the matter in December, 2023, whereas the father himself deposed that he came to know only in March, 2024. Such discrepancies, according to the Applicants, strike at the root of the prosecution's version and reinforce their contention that the case has been fabricated.

*Improbabilities in the Case of the Prosecution:*

7.6. The incidents are alleged to have occurred within the residence of the





prosecutrix, where her mother, a housewife, and other siblings were present throughout. It is difficult to conceive that repeated acts of sexual assault could have been carried out in such circumstances without the knowledge or suspicion of the other family members.

7.7. The Applicants rely on photographs and other material placed before the Investigating Officer, showing that during the relevant period, the prosecutrix and her family continued to celebrate birthdays and other social functions with the Applicants. Such conduct, it is urged, is inconsistent with the claim that the family was labouring under trauma or hostility towards the Applicants.

7.8. The prosecutrix's family also visited Khanauri, District Sangrur, Punjab, where the Applicants reside and manage their premises. No allegation of any untoward conduct at Khanauri has ever been levelled, which further undermines the credibility of the prosecution's narrative.

*Defects and Lapses in Investigation:*

7.9. No site plan or internal sketch of the flat was prepared to show where the alleged incidents took place. Although the victim alleged that she had been intoxicated by being administered ladoos or *prashad* laced with drugs, no blood or urine sample was collected, nor was any toxicological test conducted to verify the claim. In the absence of such corroborative medical evidence, the allegation remains unsubstantiated. Intoxication, by its very nature, impairs memory and consciousness, raising doubt about the reliability of the prosecutrix's recollection of events. It is further pointed out that the FSL report does not record any adverse finding against the Applicants.

7.10. Mandatory procedures relating to the investigation were not followed.



No inquiry was conducted under Section 24 of the POCSO Act, which specifically mandates that the statement of the child victim shall be recorded by a woman police officer, preferably at the residence of the child or a place of her choice, in a manner that is child-friendly and ensures the child's comfort. However, in the present case, no such statement of the victim was recorded in accordance with the said provision. Furthermore, the requirements of Standing Order No. 303 ('Guidelines for Police Response and Investigation in Cases of Sexual Offence') dated 25<sup>th</sup> May, 2019, issued by the Delhi Police, were not complied with. The Applicants were also never called upon or summoned to participate in the investigation, further reflecting the procedural lapses in the case.

7.11. The Investigating Officer failed to examine relevant aspects of the case, which fall in favour of the Applicants, such as certain photographs and WhatsApp chats between the parties.

*Illegality of Arrest:*

7.12. The Applicants were apprehended from Khanauri, District Sangrur, Punjab, in violation of due process. The grounds of arrest were not supplied to them and therefore, their arrest was invalid. On this aspect, reliance is placed on the judgment of the Supreme Court in ***Kasireddy Upender Reddy v. State of A.P. & Ors***<sup>5</sup>.

7.13. No notice under Section 41A CrPC was issued to the Applicants, even though most of the offences alleged are punishable with imprisonment up to seven years. The invocation of Section 328 IPC in the present FIR is without evidentiary basis and has been deliberately included so as to evade the

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<sup>5</sup> SLP (CRL.) 7746/2025.



safeguards articulated in *Arnesh Kumar v. State of Bihar*<sup>6</sup> and *Satinder Singh Antil v. CBI*<sup>7</sup>.

*Conduct and Antecedents of the Applicants:*

7.14. The Applicants have clean antecedents and did not misuse the liberty granted to them, while they were out on bail in accordance with the order dated 26<sup>th</sup> November, 2024. Notably, Shaveta Kataria was granted interim bail between 16<sup>th</sup> June, 2024 and 3<sup>rd</sup> July, 2024 for her mother's medical treatment. During this period, she neither misused her liberty nor attempted to evade surrender and duly returned to custody.

7.15. There is no evidence or circumstance on record to suggest that the Applicants are flight risks, have tampered with evidence, or have attempted to influence witnesses.

**CONTENTIONS OF THE COMPLAINANT AND STATE**

8. On the other hand, Mr. Mukesh Kumar, APP for the State, and Mr. Arun Khatri, counsel for the Complainant, strongly oppose the present bail applications and submit as follows:

8.1. The allegations pertain to sexual assault upon a minor girl aged about 14 years, attracting stringent provisions of the POCSO Act. The offence is grave and heinous, striking at the dignity and bodily integrity of a child. In such cases, the Courts are required to adopt a victim-centric approach and balance the rights of the accused against the larger societal interest in safeguarding children from sexual offences.

8.2. The prosecution case is supported by the statement of the Prosecutrix recorded under Section 164 CrPC, which is sufficient at this stage to *prima*

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<sup>6</sup> AIR 2014 SC 2756.

<sup>7</sup> (2022) 10 SCC 51.



*facie* establish the allegations. These statements are not isolated but are consistent with her complaint as well as with her statements before the Counsellor and the Doctor, thereby lending credibility to the version of the prosecution.

8.3. The victim, being a minor, is particularly vulnerable to pressure and intimidation. If the Applicants are enlarged on bail, it is apprehended that their close proximity to the family and the long-standing relationship between the parties would create a climate of fear and seriously impede the prosecutrix's ability to depose freely during trial. The risk of witness intimidation or subtle coercion is real and not speculative.

8.4. Contrary to the assertions of the Applicants, a preliminary inquiry was in fact conducted by SI Anjali, and a report dated 28<sup>th</sup> May, 2024 was submitted to the Duty Officer at P.S. Rani Bagh. Moreover, before registration of the FIR, counselling of the Prosecutrix was conducted by a DCW Counsellor, and her medical examination was carried out at Bhagwan Mahavir Hospital, Pitampura, Delhi. These steps reflect due compliance with procedural safeguards.

### **ANALYSIS**

9. The POCSO Act is a special statute enacted with the avowed object of protecting minors from sexual offences. The statute incorporates statutory presumptions in favour of the child victim. The seriousness of such offences must remain at the forefront while considering bail. At the same time, the Court cannot be unmindful of the principles governing bail under criminal jurisprudence. The inquiry at this stage is not into guilt or innocence but whether there exists a *prima facie* reasonable ground to believe that the accused has committed the offence, the nature and gravity of the accusation,



severity of potential punishment, risk of the accused absconding or fleeing if released on bail, the likelihood of the offence being repeated<sup>8</sup>. These considerations must be applied in a manner that strikes a balance between the fundamental right to personal liberty on the one hand and the societal imperative of safeguarding children on the other.

10. The Supreme Court in the recent case of ***Bhagwan Singh v. Dilip Kumar alias Deepu alias Deepak and Anr.***<sup>9</sup>, emphasised that bail is a discretionary relief, to be granted or denied based on the specific facts and circumstances of each case. The Court further delineated the factors to be taken into consideration while exercising such discretion, as follows:

*“11. The grant of bail is a discretionary relief which necessarily means that such discretion would have to be exercised in a judicious manner and not as a matter of course. The grant of bail is dependent upon contextual facts of the matter being dealt with by the Court and may vary from case to case. There cannot be any exhaustive parameters set out for considering the application for grant of bail. However, it can be noted that:*

**11.1. While granting bail the court has to keep in mind factors such as the nature of accusations, severity of the punishment, if the accusations entail a conviction and the nature of evidence in support of the accusations.**

**11.2. Reasonable apprehensions of the witnesses being tampered with or the apprehension of there being a threat for the complainant should also weigh with the Court in the matter of grant of bail.**

**11.3. While it is not accepted to have the entire evidence establishing the guilt of the accused beyond reasonable doubt but there ought to be always a prima facie satisfaction of the Court in support of the charge.**

*11.4. Frivolity of prosecution should always be considered and it is only the element of genuineness that shall have to be considered in the matter of grant of bail and in the event of there being some doubt as to*

<sup>8</sup> ***Prasanta Kumar Sarkar v. Ashis Chatterjee & Anr.*** (2010) 14 SCC 496.

<sup>9</sup> 2023 INSC 761.



*the genuineness of the prosecution, in the normal course of events, the accused is entitled to have an order of bail.”*

[Emphasis Supplied]

11. The plea of false implication advanced by the Applicants is, at its core, a matter of defence to be put forth by the Applicants at trial. At the stage of consideration of bail, such assertions cannot be permitted to dilute the specific and direct allegations levelled by the prosecutrix. Questions of alleged financial disputes, photographs of social interactions, or other collateral material are matters to be tested during the course of trial. The law is well settled that bail proceedings are not intended to mirror the evidentiary rigour of a full-fledged trial. To engage in a detailed assessment of competing versions at this stage would risk converting the bail hearing into a mini-trial, something courts are consistently cautioned against<sup>10</sup>.

12. The Applicants have also emphasised that the complaint is typed and detailed, making it improbable that a 14-year-old could have authored it unaided, and that contradictions appear in the statements of the prosecutrix and her parents. While these submissions are not entirely without force, they cannot detract from the fact that the prosecutrix’s statement under Section 164 CrPC substantially reiterates the core allegations, which in turn find mention both in her MLC and in the FIR. The prosecutrix has, in particular, alleged that around December 2023, Ashish Kansal began hugging her forcefully despite her resistance, causing her discomfort and revulsion. She further stated that when she attempted to disengage, he touched her inappropriately. On one occasion, while she was alone with him in a car on the pretext of purchasing an item, he allegedly touched her on her thighs,

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<sup>10</sup> See also: *Brijmani Devi v. Pappu Kumar & Anr.*, (2022) 4 SCC 497 and *Mahipal v. Rajesh Kumar @*



back, and chest. He is also stated to have repeatedly used abusive and offensive language towards her. The consistency across different stages of the proceedings lends credibility to her version and, taken cumulatively, at this stage, furnishes a strong *prima facie* case against Ashish Kansal.

13. There is some time gap between the alleged incidents, i.e., November-December 2023, and the lodging of the complaint in May 2024. Indeed, delay is often considered as a factor weakening the prosecution's case, however, it is also well-recognised that delay in reporting, especially in cases of sexual assault involving minors, is not uncommon and does not, by itself, demolish the case. The facts outlined in the FIR describe the close and reverential relationship between Shekhar Kansal (elder brother of the Applicant Ashish) and the Prosecutrix's family. The Prosecutrix and her family held Shekhar in high regard, referring to him as "Baba ji", bowing before him, and even being encouraged to worship his photograph. This dynamic indicates the deep level of psychological influence and control that Shekhar and Ashish Kansal may have exercised over the family, which helps explain the delay in filing the FIR.

14. The Applicants also attempted to undermine the prosecution's *prima facie* case by arguing that the alleged incidents could not have occurred within a family residence where other members were present, and the family continued to maintain social ties with them during the intervening period. Such factors, while not insignificant, are not determinative. Sexual offences can and do occur in environments where others are present but unaware, and continued social interaction may reflect coercive, cultural, or psychological factors rather than an indication of falsity.

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*Polia*, 2020 (2) SCC 118.



15. The alleged lapses such as the absence of a site plan, lack of forensic confirmation regarding intoxicants, incomplete adherence to Standing Orders or the mandate of Section 24 of the POCSO Act may point towards investigative deficiencies. However, the record also reflects that the prosecutrix was counselled by the DCW and that a preliminary inquiry preceded registration of the FIR. At this stage, such irregularities, even if assumed, cannot outweigh or neutralise the gravity of the offence, the categorical allegations of sexual assault by Ashish Kansal, supported by the prosecutrix's 164 CrPC statement and the contemporaneous medical record.

16. The Court is also not persuaded with the plea of non-supply of the grounds of arrest. A similar plea advanced by co-accused Shekhar Kansal was rejected by this Court *vide* order dated 14<sup>th</sup> May, 2025. The challenge to the said order was dismissed by the Supreme Court *vide* order dated 25<sup>th</sup> August, 2025. The same reasoning shall also apply to the Applicants.

### **THE DIFFERENTIATING FACTS IN THE TWO CASES**

17. In light of the foregoing discussion, the Court now proceeds to examine the facts specific to each Applicant. Here, a clear distinction emerges: the prosecution attributes substantive and direct acts of sexual assault to Ashish Kansal, not only in the statement of the victim recorded under Section 164 of CrPC, but also corroborated by the medical records. The allegations against Shaveta Kataria are of abetment and facilitation, namely, inducing the child to consume laced *prashad* and pressuring her to acquiesce to the conduct of the co-accused. The statutory scheme itself recognises the distinction between commission and abetment, and at the stage of bail this differentiation assumes significance.

18. Pertinently, the victim, who is still a minor, is undoubtedly vulnerable





to pressure, and the longstanding relationship between the families creates a risk of influence. In Ashish's case, where he is alleged to have directly assaulted the victim, the risk of intimidation becomes all the more acute. Shaveta's case, however, the risk, though present, can be adequately mitigated by imposing stringent conditions.

19. In light of the above discussion and considering the overall facts and circumstances of the case, this Court is of the view that Ashish Kansal cannot, at this stage, be enlarged on bail. His continued detention, therefore, is necessary both to safeguard the integrity of the trial and to give effect to the protective mandate of the statute.

20. The case against Shaveta Kataria is limited to abetment, and she is not charged under Sections 6 or 10 of the POCSO Act. Moreover, her antecedents are clean. It must also be noted that Shaveta was earlier granted interim bail twice by the Trial Court, in order to attend to her ailing mother, and on both the occasions she complied with the conditions and duly surrendered. Her continued detention is thus unwarranted, particularly when any potential risk of tampering or absconding can be effectively addressed through the imposition of stringent bail conditions.

### **DIRECTIONS**

21. In view of the above analysis, the following directions are issued in BAIL APPLN. 3306/2024:

21.1. The Applicant, Shaveta Kataria, is granted the relief of bail on furnishing a personal bond for a sum of INR 50,000/- with two sureties of the like amount, subject to the satisfaction of the Trial Court/Duty MM, on the following conditions:



- a. The Applicant shall cooperate in any further investigation as and when directed by the concerned IO;
  - b. The Applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case or tamper with the evidence of the case, in any manner whatsoever;
  - c. The Applicant shall under no circumstance leave the country without the permission of the Trial Court;
  - d. The Applicant shall appear before the Trial Court as and when directed;
  - e. The Applicant shall provide the address where she would be residing after his release and shall not change the address without informing the concerned IO/ SHO;
  - f. The Applicant shall give her mobile number to the concerned IO/SHO and shall keep her mobile phone switched on at all times.
  - g. The Applicant shall report to the concerned PS on the first Monday of every month; However, she shall not be kept waiting for more than an hour.
- 21.2. In the event of there being any FIR / DD entry / complaint lodged against her, it would be open to the State to seek redressal by filing an application seeking cancellation of bail.
22. In BAIL APPLN. 3339/2024, the application for regular bail filed by Ashish Kansal is dismissed. He is directed to surrender before the concerned jail authorities within a period of ten days from today.
23. The bail applications, along with pending applications, are accordingly disposed of.
24. It is clarified that any observations made in the present order are for the purpose of deciding the present bail applications and should not



influence the outcome of the trial and also not be taken as an expression of opinion on the merits of the case.

**SANJEEV NARULA, J**

**SEPTEMBER 12, 2025**

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