



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

% **Reserved on: 16<sup>th</sup> September, 2025**

**Pronounced on: 19<sup>th</sup> September, 2025**

+ **BAIL APPLN. 1866/2025**

**GOVIND RAM**

S/o Sh. Krishan Ram

R/o H.No.F-281/25,

First Floor, Ward No.2,

Mehrauli, New Delhi.

.....Petitioner

Through: Ms. Neelakshi Bhadauria, Mr.  
Sarthak Karol, Mr. Abhishek Kumar  
Singh, Ms. Tanishka Pawar and  
Mr. Shashank Sharma, Advocates

versus

**STATE OF NCT OF DELHI**

Through SHO,

P.S. Mehrauli.

.....Respondent

Through: Mr. Shoaib Haider, APP for State  
with SI Vinod Kumar, PS: Mehrauli  
Ms. Riya Arora, Advocate for Victim

**CORAM:**

**HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA**

**J U D G M E N T**

**NEENA BANSAL KRISHNA, J.**

1. Second Bail Application under Section 483 read with Section 528 BNSS has been filed on behalf of the Applicant/Petitioner Govind Ram for grant of Bail in *FIR No.0345/2023 under Section 8 of the Protection of Children from Sexual Offences Act, 2012* registered at Police Station Mehrauli, Delhi.



2. The Applicant has submitted that he is 64 years old, resident of Mehrauli, New Delhi. He has been working as a driver for more than 20 years and has no criminal antecedents. He was apprehended on 10.07.2023 for the offence under Section of POCSO Act and is in custody since then.

3. The *brief facts* are that a Complaint was lodged by the Complainant Smt. H that on 09.07.2023 at about 07:00 P.M while she was coming back home from her office, she saw the Applicant with the victim H. Both of them had allegedly pulled down their respective pants and knickers and were masturbating with each other. She confronted the Applicant and tried to catch hold of him, but he ran away. The neighbours informed that the Applicant was residing near the house of the Complainant. A PCR call was made and the Applicant was apprehended on 10.07.2023. His medical examination was got done.

4. The *Bail is sought on the ground* that the Applicant is in Judicial Custody since 10.07.2023 and he cannot be denied personal liberty by not granting him Bail. His conduct inside the Jail has been proper and no Complaints have been received. There is no probability of his tampering with the evidence. The conclusion of the trial would take some time and there is no likelihood of the Applicant evading the process of justice, if released on Bail.

5. Out of 15 Prosecution witnesses only five witnesses have been examined till date. The material witnesses i.e. the victim; his sister and the Complainant have all been examined. It is further submitted that there are material discrepancies in the statement of the Complainant who has been examined as PW2. All the public witnesses have been examined and there is no chance of tampering with the witnesses. Only the Police witnesses



remained to be examined. Reliance is placed on Mukesh vs. State BAIL APPLN.2830/2021, Ravinder Kumar vs. State BAIL APPLN.35/2023, Avdesh vs. State BAIL APPLN.2858/2022, Ram Prasad vs. State NCT of Delhi BAIL APPLN.1923/2023.

6. It is further submitted that no CCTV footage has been recovered by the Police. The clothes of the Applicant and that of the victim have also not been seized. As per the Complainant, about 10-15 persons had gathered on the scene of crime, but no efforts had been made to record their statements. Further, as per the statement of the victim, he narrated the incident to his mother and father and Tauji, but none of them has been cited as prosecution witness. It is a case where the Applicant has been dragged into these proceedings out of personal spite of the Complainant. The case suffers from incomplete and faulty investigations. The *Call Detail Records* have also not been collected to prove the presence of the Complainant at the scene of crime.

7. The Applicant has been residing in the colony for more than 25 years and no previous Complaints have been brought on record against him of ever been engaged in any anti social activities. He has been falsely implicated because of the personal enmity of the Complainant who did not like the Applicant drinking alcohol with her husband and father-in-law. The false Complaint has been made to take revenge from the Applicant by making false allegations.

8. There was a delay in registration of FIR, which has not been explained. It is claimed that FIR was not registered initially indicating that the event is an afterthought and the possibility of the false implication by the victim cannot be ruled out.



9. Though, it had been observed by Id. ASJ while denying Bail that there is a possibility of the Applicant absconding and fleeing from justice and that he may threaten the family members of the victim and other witnesses, but it has no basis. Such bald allegations must not be accepted and the Prosecution ought to have placed on record some material to indicate these apprehensions stated against the Applicant.

10. Reliance is placed on Vipin Singh vs. State 2023 SCC OnLine Del 648, wherein it has been held that the allegation of the Applicant threatening the victim/prosecutrix and her family, is merely an apprehension without it being substantiated by any material and cannot be a ground to deny the Bail.

11. It is further submitted that the Applicant has not indulged in any delay tactics to prolong the trial or cause annoyance to the victim or the family members. There is no danger of his absconding or fleeing, if released on Bail. It is well settled that the seriousness of an offence cannot be the sole ground to deny the Bail. Reliance is placed on Sunder Singh Bhati vs. State 2022 SCC OnLine Del 134 in support thereof.

12. It is further submitted that while Section 29 engrafts a presumption of guilt against the Accused, but it also affords an opportunity to the Applicant to rebut this presumption by proving to the contrary. The Court cannot invoke half of the provision of Section 29, while ignoring the second half; much less to the detriment of the Applicant. The opportunity to prove his defence would arise only after the evidence of the Prosecution is concluded. It would be an anathema to fundamental criminal jurisprudence to ask the Accused to disclose his defence or to adduce evidence in his defence even before the Prosecution has marshalled its evidence. Section 29 cannot be applied in absolute terms while considering the bail Application without



doing violence to ‘*due process*’ and ‘*fair trial*’ tenets read into Article 21 of Constitution of India. Reliance is placed on P. Chidmbaram vs. CBI (2020) 13 SCC 337.

13. It is further contended that there are material improvements and contradictions in the testimony of the Prosecution witnesses. Their statements have not been corroborated by any independent witnesses. The entire testimony of the Complainant is not only an afterthought, but has significant improvements thereby reflecting that she has not deposed about the correct facts. There are 15 Prosecution Witnesses out of whom only 5 witnesses have been examined. No progress in the case has been made in the last 10 months when no additional witness has been examined. The trial is likely to take considerable amount of time. It would not serve any purpose to deprive the Applicant of his fundamental right to liberty.

14. Hence, a prayer is made that he may be granted Bail.

15. **Learned Counsel on behalf of the Petitioner has vehemently contended** that the *grounds of arrest* have not been supplied to the Applicant. There is nothing on record to show that these grounds of arrest were either mentioned in the Remand Application or were considered by the Court while grant Remand or found any mention in the Case Diary or were ever supplied to the Applicant, either separately or in the Arrest memo. Serious fundamental rights of the Applicant have been violated entitling him to Bail.

16. Reliance is placed on Vihaan Kumar vs. State of Haryana (2025) 5 SCC 799, Kasireddy Upender Reddy vs. State of A.P. 2025 SCC OnLine SC 1228, Prabir Purkayastha vs. State (NCT of Delhi), (2024) 8 SCC 254, Gagan vs. State (NCT of Delhi) 2025 SCC OnLine Del 1299, Pranav



Kukreja vs. State (NCT of Delhi) 2024 SCC OnLine Del 9549 and Rofiqul Islam vs. State of Assam, Gauhati High Court, Order dated 07.08.2025 in Bail Application No.3850/2024.

17. It is further submitted that all the public witnesses already stands recorded, whose testimony suffers from serious discrepancies and inconsistencies. Furthermore, trial is likely to take long and no fruitful purpose would be served by long incarceration of the Applicant in Jail for which reliance has been placed on Mukesh vs. State of NCT Delhi Bail Appln.2830/2021 decided on 12.04.2022, Avdesh vs. State of NCT of Delhi Bail Appln.2858/2022 decided on 01.08.2023 and Ram Prasad vs. State of NCT of Delhi Bail Appln.1923/2023 decided on 01.12.2023.

18. Learned counsel has further contended that the Applicant was granted Interim Bail for two months. He did not misuse his liberty and surrendered on time. It is further contended that even though Charges under Section 377 IPC have been framed, but neither the MLC nor the FSL Report corroborates or supports the Charges under Section 377 IPC. So much so, even from the Complaint and the testimony of the Complainant, no offence under Section 377 IPC is made out.

19. In the end, it is argued that the Applicant is 63 years old man with clean antecedents and is not likely to abscond or tamper with the evidence. Hence, a prayer is made that the Applicant be granted Bail.

20. The Application is **contested by the Complainant**, who has argued that the Charges have been framed under Section 377 IPC aside from other Sections, which have not been challenged by the Applicant. This is a relevant fact which cannot be overlooked while considering the Bail Application.



21. Secondly, Section 29 provides for a presumption of guilt against the Accused, which also is a material fact while considering the bail. There are allegations of commission of serious offence and the *delay per se*, cannot be the only relevant factor for consideration of Bail. It cannot be overlooked that the Applicant is 63 years old while the victim is a young 13 year old Specially Abled Child. Also, the Applicant lives in the proximity of the victim and there is every likelihood of harm being caused to the victim. The Bail is, therefore, opposed.

22. The **Status Report** has been filed on behalf of the State, wherein the details of the investigations have been stated. It is submitted that the victim is *13 years old child who suffers from 50% mental disability*. He had been given counselling by the DCW Counsellor. The Accused was arrested under Section 8 POCSO Act, to which subsequently other Sections have been added. While arresting the Accused, all the guidelines as laid down by the Supreme Court were duly followed. The Bail Application is opposed as the crime committed is heinous in nature.

**Submissions heard and record perused.**

23. The first aspect is the offence with which the Applicant has been charged with. The Chargesheet got filed on 06.09.2023 and the Charges have been framed against the Applicant on 11.10.2023 under Section 354A (i) and (ii) IPC, 377 IPC along with Section 8 read with Section 7 of POCSO Act, Section 12 read with Section 11(i) and (ii) of PCSO Act and Section 10 read with Section 9(k) of the POCSO Act.

24. While it cannot be over looked that the charges have been framed under various Sections, but as per the Complaint and also the testimony of the Complainant and other public witnesses, the Applicant was found



masturbating with the victim. The MLC shows that there was no external injury noticed though it was opined that insertion of penis or penis like object, cannot be ruled out. However, the samples were preserved for further analysis. The FSL Report has been received wherein it was reported that there was no DNA profiling done.

25. The evidence of all the material witnesses have already been recorded. The Accused is 63 years old man who is languishing in Jail since 10.07.2023. It has been pointed out on behalf of the Applicant that not a single witness has been examined in the last 10 months. There are 10 remaining Prosecution witnesses to be examined. The trial is likely to take long. While the delay may not be a relevant factor when considering the gravity of the offence, but in the present case considering the totality of circumstances, the Applicant is granted Regular Bail, on the following terms and conditions:

- a) The petitioner/accused shall furnish a personal bond of Rs.35,000/- and one surety of the like amount, subject to the satisfaction of the learned Trial Court.
- b) The petitioner/accused shall appear before the Court as and when the matter is taken up for hearing;
- c) The petitioner/accused shall provide his mobile number/changed mobile number to the IO concerned which shall be kept in working condition at all times;
- d) The petitioner/accused shall not indulge in any criminal activity and shall not communicate or intimidate the witnesses.





- e) In case the petitioner/accused changes their residential address, the same shall be intimated to learned Trial Court and to the concerned I.O.
- f) The Applicant/Petitioner shall not reside in the vicinity of the victim and shall not contact the victim or the family in any manner.
26. The copy of this Order be communicated to the concerned Jail Superintendent as well as to the learned Trial Court.
27. The above Bail Application is accordingly disposed of.

**(NEENA BANSAL KRISHNA)**  
**JUDGE**

**SEPTEMBER 19, 2024**

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