



2025:DHC:6526



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

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*Date of Decision: 06.08.2025*+ **BAIL APPLN. 1316/2025**

SWAPNIL

.....Petitioner

Through: Mr. Mukesh Kalia and Ms. Kanika  
Vohra, Advocates.

versus

THE STATE N.C.T OF DELHI AND ANR

.....Respondents

Through: Mr. Nawal Kishore Jha, APP for State  
with IOs Inspector Icha Ram and  
Inspector Raj Kumar**CORAM: JUSTICE GIRISH KATHPALIA****J U D G M E N T (ORAL)**

1. The accused/applicant seeks regular bail in case FIR No. 30/2021 of PS Daryaganj for offence under Section 364A/377/419/347/120B IPC & 25/27 Arms Act. On behalf of State, the application is opposed through a status report. I heard learned counsel for accused/applicant and learned APP for State assisted by IOs/Inspector Ichha Ram and Inspector Raj Kumar.

2. Broadly speaking, prosecution case is that on 01.02.2021, on the complaint of a lady, the FIR in question was registered, alleging that four persons abducted her husband and demanded ransom through mobile phone calls. Originally, the ransom demanded was Rs.5,00,000/-, but subsequently the deal was settled at Rs.50,000/-. With the help of technical surveillance,



the alleged abductors were tracked down and a Head Constable was sent as decoy with the ransom money to contact them. Simultaneously, the rescue team also reached there and rescued the abducted victim X. The accused/applicant and his accomplices were arrested. During further investigation, X alleged that the accused/applicant forcibly put his penis in the mouth of X and video recorded the incident. The incident of the alleged abduction was captured on CCTV camera.

3. Against the above backdrop, learned counsel for the accused/applicant argues that the accused/applicant deserves to be released on regular bail in view of all judicially sanctified parameters. It is contended that the accused/applicant was released on interim bail four times and he always surrendered back, which shows that he is not a flight risk. Further, learned counsel for accused/applicant also contends that X has not supported prosecution case in his testimony as PW-1. It is also submitted that since all public witnesses stand examined in court, the accused/applicant who was arrested on 01.02.2021 (*after deducting the period of interim bails, he has already spent more than 02 years in jail*) deserves to be now released on bail, especially in view of his precarious health condition.

4. On the other hand, learned APP strongly opposes the bail application on the ground that the ransom currency notes were recovered from the accused/applicant. As regards the public witnesses having been examined, learned APP on instructions of the IOs submits that one more public witness namely Sarfaraz remains to be examined, since due to inadvertence, he was



not named in the list of witnesses, so application under Section 311 CrPC has been filed before the trial court. No other opposition to the bail application has been raised.

5. To begin with, the argument of learned counsel for accused/applicant that all public witnesses stand examined, so there is no possibility of tampering with the evidence is met with by prosecution side alleging that one more public person namely Sarfaraz remains to be examined. The issue is as to whether Sarfaraz was not named in the list of witnesses only due to inadvertence or is now sought to be introduced to nullify testimony of X, who has not supported the prosecution.

5.1 In order to examine this aspect, I asked the IOs to show me the Case Diary dated 02.02.2021, when Sarafarz is stated to have been examined by the IO under Section 161 CrPC. But the IOs submit that they have not brought the Case Diaries.

5.2 It has been repeatedly directed that the investigators must carry with them the Case Diaries, to be shown to the court, as the Case Diaries are the material which sanctify investigation. But in large number of cases, the investigators do not bring Case Diaries and raise unacceptable excuses.

5.3 So presently, there is nothing before me to rule out that Sarfaraz is being brought in at this belated stage after 'X' testified hostile to the prosecution case.



5.4 However, in this regard, I must add a cautious rider that these observations are for the limited purposes of deciding whether the accused/applicant who is in jail since 01.02.2021 be released on bail or not. The issue shall be examined completely afresh by the trial court while considering the application under Section 311 CrPC.

5.5 For present purposes, it appears that no public witness remains to be examined.

6. I also find substance in the submission of learned counsel for accused/applicant that he is not a flight risk as he was released four times on interim bail but did not flee.

7. I have also examined the medical record of the accused/applicant, on the basis whereof his interim bail application was pending till this day. Of course, from the medical record it is *prima facie* reflected that he is being given appropriate medical treatment in jail. But at the same time, his illness cannot be ignored and the same can be treated as one of the grounds to grant him relief, considering his prolonged undertrial incarceration.

8. Considering the overall circumstances described above, the bail application is allowed and the accused/applicant is directed to be released on bail subject to his furnishing a personal bond in the sum of Rs.10,000/- with one surety in the like amount to the satisfaction of the learned trial court.



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9. Copy of this order be sent to the concerned Jail Superintendent for being immediately conveyed to the accused/applicant.

**GIRISH KATHPALIA  
(JUDGE)**

**AUGUST 6, 2025/ry**