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* IN THE HIGH COURT OF DELHI AT NEW DELHI

% Date of Decision: 06th October, 2026

CNR No. DLHC010367892026

+ BAIL APPLN. 3253/2026

VICKY @ VIKKY

.....Applicant

Through: Mr. Utsav Kumar, Ms. Medhavi Tyagi, Mr. Devender Kumar, Mr. Bikram Vishal Kumar, Ms. Laveena Tak, Mr. Akshay Sahay and Mr. Yash Gupta, Advocates
Mob: 8789311630

versus

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

Through: Mr. Sunil Kumar Gautam, APP for State
SI Koma, PS Aman Vihar, Delhi
Ms. Anushkaa Arora, Standing Counsel, Delhi High Court Legal Services Committee for R-2
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CORAM:**HON'BLE MS. JUSTICE MINI PUSHKARNA****MINI PUSHKARNA, J. (Oral):**

1. The present is the third regular bail application filed by the applicant, i.e., Sh. Vicky S/o Sh. Mukesh, under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 ("BNSS"), in connection with *FIR No. 381/2023*,



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dated 29th July, 2023, registered at Police Station (“PS”) Aman Vihar, Rohini, Delhi, under Sections 363/368/376/328/34 of the Indian Penal Code (“IPC”) and Sections 6/21 of the Protection of Children from Sexual Offences Act, 2012 (“POCSO Act”).

2. In the present case, the FIR came to be registered on 29th July, 2023, pursuant to the missing complaint made by the father of the victim about his missing daughter, i.e., the victim. Subsequently, a Chargesheet came to be filed by the Police against the applicant under Sections 363/368/376/328/34 of the IPC and 6/21 of the POCSO Act.

3. The brief facts of the present case, as emerging from the said Chargesheet, are as follows:

3.1. The complainant, i.e., father of the victim, in the present FIR, alleged that his minor daughter, i.e., the victim, on 28th July, 2023, left for school at around 07:00 AM and had not returned since.

3.2. During the course of investigation, on 30th July, 2023, the victim was traced and was brought to the PS, along with the complainant. The counselling of the victim was conducted in the PS and her statement was recorded under Section 161 of the CrPC, in presence of a counsellor.

3.3. The victim, in her statement, stated that on 28th July, 2023, pursuant to a scolding by her mother, she had left her home in anger on the pretext of going to school, but, in reality, she went to the house of her maternal aunt. She requested her aunt not to tell anyone about her being there. Furthermore, she stated that she had no complaint against anyone and no one had done anything wrong to her. During the course of investigation, before the Trial Court, the victim stated that she had gone to her friend’s place and further stated that she had no complaint to be made against anyone.



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3.4. However, on 31st July, 2023, the victim along with the complainant came to the PS and stated that one Sh. Vicky, i.e., the applicant, had kept her without her will and had sexual intercourse with her against her will.

3.5. The victim was sent to Sanjay Gandhi Memorial (“SGM”) Hospital, Mangolpuri, Delhi, where the medical examination of the victim was conducted *vide MLC 234/2023*. In the said MLC, it was stated that the victim knew the applicant since 08 months, and that on 29th July, 2023, she wilfully went with the applicant to his friend’s house. The victim was served some tea, whereafter, she lost her consciousness. After regaining her consciousness, which as per her was after one day, she found herself locked in a room. Subsequently, the applicant approached the victim and abused her without her will, and on protests, the applicant put a handkerchief on her face and she again lost her consciousness.

3.6. Upon regaining consciousness, she found herself in a vulnerable state and with pain in her lower abdomen along with both legs. She also noticed an abrasion on her right calf, which pained. She then raised alarm, pursuant to which the applicant along with his friend and his wife fled the scene, leaving the victim locked in the room. Subsequently, on 30th July, 2023, the victim was found by the police.

3.7. During the course of investigation, the applicant was arrested on 14th August, 2023, and was sent to Judicial Custody after being produced before the Magistrate.

3.8. The site plan of the room, i.e., the place of incident, was prepared and, at the instance of the victim, a blanket was seized and sealed by the police from the place of incident. The age proof of the victim was also verified and her date of birth was confirmed as 12th November, 2008, as per which, she



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was 14 years 08 months old at the time of the incident in question.

4. During the course of investigation, exhibits were deposited in Forensic Science Laboratory (“FSL”), Rohini, Delhi. After receiving the report from the FSL, the said report was filed before the Trial Court *vide* a supplementary Chargesheet.

5. The case, being SC 779/2023, pertaining to the FIR in question, is pending before the Court of the Additional Sessions Judge (“ASJ”) – 04 (POCSO), North–West, Rohini Court, Delhi, and is presently at the stage of prosecution evidence.

6. The latest Nominal Roll dated 10th September, 2026, furnished by the Jail Authorities, shows that the applicant has been in custody since 02nd August, 2023, i.e., for a period of 03 years 01 month and 09 days, as on 10th September, 2026. Presently, the applicant has been in custody for approximately 03 years and 02 months.

7. Learned counsel appearing for the applicant submits that the applicant was 20 years of age at the time of the incident, while the victim was 14 years of age.

8. He submits that the victim and the applicant were having a love affair for the past 8-9 months prior to the date of the incident, and their relationship was public and known to everyone as the victim frequently posted their pictures on her social media.

9. He further submits that the victim as well as her father have already been examined. Furthermore, the applicant is a permanent resident of Delhi and stays with his mother and three brothers. Additionally, the applicant does not possess a passport, hence he is not at flight risk. Moreover, the applicant has no prior criminal antecedents.



10. Learned counsel appearing for the applicant submits that the victim left her home on a Friday morning and was recovered on Sunday evening. As per the case of the prosecution, the victim was intoxicated. However, during her medical examination, no drug or intoxicant was found in her blood and even her blood sugar and blood pressure were found normal. Therefore, the case of the prosecution that the victim remained unconscious for three days is not corroborated by any medical evidence.

11. In response, learned counsel appearing for the complainant submits that the victim was made to smell something, therefore, there cannot be anything in her blood. Further, in her supplementary statement, the victim has categorically stated about sexual assault, and even the prosecution witnesses have corroborated each other.

12. She submits that the allegations in the present case concern offences of extremely grave nature, involving a minor victim and carrying severe punishment under the IPC and POCSO Act.

13. Learned Additional Public Prosecutor (“APP”) for the State submits that in the cases related to the POCSO Act, consent is irrelevant. The complainant has fully supported the case of the prosecution.

14. As per the prosecution, the victim’s father, i.e., the complainant, lodged a missing complaint dated 29th July, 2023, of victim alleging that she had been kidnapped by some unknown person on 28th July, 2023. Pursuant thereto, the FIR in question was lodged. Subsequently, the victim was recovered on 30th July, 2023. She revealed commission of sexual assault against her in her statements before the police, which led to addition of offences under Sections 328/376/34 of the IPC and 6/21 of the POCSO Act against the applicant.



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15. The prosecution has placed on record a Status Report dated 02nd September, 2026, emerging therefrom, the case of the prosecution is as follows:

15.1. As per the FSL report, the DNA profiles of both the applicant as well as the victim were accounted for in the mixed DNA profile obtained from the blanket recovered from the site of incident. Though the DNA profile of the victim matched with that of the blanket, no male DNA could be generated from the cervical swabs and smears of the victim. Further, the DNA profiling of the blood gauze of the applicant could not be generated, possibly due to degradation/inhibition.

15.2. The mobile phone of the applicant was also seized and sent to FSL for examination. The data was successfully extracted. However, the WhatsApp data could not be recovered.

15.3. The age of the victim has been verified and she was 14 years and 08 months old at the time of the incident, and the age of the applicant was 20 years and 04 months.

15.4. The investigation is complete in all material aspects, and the case is presently at the stage of prosecution evidence. The examination-in-chief of the victim and her father has been completed.

15.5. The present bail is accordingly strongly opposed as the offence in question is serious in nature.

16. Having heard learned counsel appearing for the parties, this Court notes that in the initial statement made by the victim on 30th July, 2023, under Section 161 of the CrPC before the police, she stated that she had left her house in anger and that she had no complaints against anyone. The said statement reads as under:



“

U/s 161 CrP.C

I state that I live with my family at the above address and study in class 9th in a Government School in Sector-20, Rohini, Delhi. About 5-7 days ago, my mother scolded me regarding some household matters, and in that anger, on 28/07/23, I left my house on the pretext of going to school without informing anyone and I went to my maternal aunt's house. I also asked my aunt not to tell anything at home. Regarding which, on 30/07/23, I came to the police station with my family and the police. In the presence of ladies, police and a counselor, I was admitted to SGM Hospital and counseling was also done. I left my house in anger. No one has done anything wrong to me. I have no complaints against anyone, I am going home with my father now. Whatever you have read and heard in my statement is fine.

”

17. Subsequently, the victim made a supplementary statement on 01st July, 2023, wherein, she alleged sexual assault by the applicant. Thus, it is seen that the victim has given different statements on different dates.

18. It is to be noted that the present is a case, wherein, the applicant and the victim were in a love relationship from few months prior to the date of the incident in question. As per the documents on record, the victim has posted various Instagram posts, containing the photographs of the applicant. Further, the victim has also expressed her love for the applicant in her Instagram posts and has posted her photographs with him in intimate positions.

19. This Court further notes that, at the time of the incident, the applicant was 20 years of age while the victim was 14 years of age. The applicant has already spent more than 03 years in judicial custody.

20. The Court cannot ignore the young age of both the applicant as well as the victim. The documents on record show the intimate and romantic relationship between the applicant and the victim. Further, in her initial statement the victim stated in categorical terms that she had left the house on



her own accord and that she did not want to make any complaint against anyone. These facts cannot be disregarded and serve as mitigating factors which tilts the balance towards grant of bail to the applicant.

21. In this regard, this Court notes the judgment of this Court in the case of *Praduman Versus State (Govt. of NCT of Delhi) and Another, 2021 SCC OnLine Del 4620*, wherein, this Court, in similar set of facts, i.e., when the applicant and the victim were romantically involved prior to the complaint, had granted bail to the applicant. The relevant excerpts of the said judgement are as follows:

“xxx xxx xxx

22. Consensual sex has been in legal grey area because the consent given by minor cannot be said to be a valid consent in the eyes of law. The short question which arises is as to whether the petitioner should be granted bail or not. Whereas, what has become a trite and unfortunate practice is that the Police are filing POCSO cases at the behest of the family of a girl who object to her friendship and romantic involvement with a young boy. The rigor of the law is therefore being misapplied and subsequently misused. The age of the petitioner and the prosecutrix, the photograph which categorically pointed towards a relationship between the two and the discrepancies in the statements given at the time of the recordings of the MLC, the FIR and the statement under Section 164 CrPC are all mitigating factors which tilt the balance towards the grant of bail to the accused.

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25. This Court in Dharmender Singh v. State (Govt. of NCT) (supra), has very definitely laid down parameters that are to be followed when considering bail of a person accused under the POCSO Act, it has held as follows-

“77. Though the heinousness of the offence alleged will beget the length of sentence after trial, in order to give due weightage to the intent and purpose of the Legislature in engrafting section 29 in this special statute to protect children



*from sexual offences, while deciding a bail plea at the post-charge stage, in addition to the nature and quality of the evidence before it, the court would also factor in certain real life considerations, illustrated below, which would **tilt the balance against or in favour of the accused**:*

- a. the age of the minor victim : the younger the victim, the more heinous the offence alleged;*
- b. the age of the accused : the older the accused, the more heinous the offence alleged;*
- c. the comparative age of the victim and the accused : the more their age difference, the more the element of perversion in the offence alleged;*
- d. the familial relationship, if any, between the victim and the accused : the closer such relationship, the more odious the offence alleged;*
- e. whether the offence alleged involved threat, intimidation, violence and/or brutality;*
- f. the conduct of the accused after the offence, as alleged;*
- g. whether the offence was repeated against the victim; or whether the accused is a repeat offender under the POCSO Act or otherwise;*
- h. whether the victim and the accused are so placed that the accused would have easy access to the victim, if enlarged on bail : the more the access, greater the reservation in granting bail;*
- i. the comparative social standing of the victim and the accused : this would give insight into whether the accused is in a dominating position to subvert the trial;*
- j. whether the offence alleged was perpetrated when the victim and the accused were at an age of innocence : an innocent, though unholy, physical alliance may be looked at with less severity;***
- k. whether it appears there was tacit approval-in-fact, though not consent-in-law, for the offence alleged;*
- l. whether the offence alleged was committed alone or along with other persons, acting in a group or otherwise;*



m. other similar real-life considerations.

78. The above factors are some cardinal considerations, though far from exhaustive, that would guide the court in assessing the egregiousness of the offence alleged; and in deciding which way the balance would tilt. At the end of the day however, considering the myriad facets and nuances of real-life situations, it is impossible to cast in stone all considerations for grant or refusal of bail in light of section 29. The grant or denial of bail will remain, as always, in the subjective satisfaction of a court; except that in view of section 29, when a bail plea is being considered after charges have been framed, the above additional factors should be considered.”

(emphasis supplied)

xxx xxx xxx

27. It can be seen that the petitioner and the complainant are friends and love between both of them cannot be ruled out as an option. The FIR has been lodged after the discovery that the prosecutrix is pregnant and statement under Section 164 Cr.P.C recorded thereafter. As stated there are discrepancies between the statement of the doctor, the FIR and the statement under Section 164 CrPC. Looking at the respective ages of the petitioner and the complainant both were romantically attracted towards each other and their relationship was consensual. The photographs annexed in the petition show that the petitioner and the complainant were romantically involved with each other, which is a common phenomena in adolescence/young adults. It is also clear to the Court that the pregnancy of the complainant was terminated after lodging of the FIR. The complainant has gone on record in her 164 Cr.P.C statement as well as before the learned Trial Court that she would not like to pursue this case and wants to move on with her life and study ahead and would also not want her friend to suffer in jail. The petitioner being a young man of 21 years of age and having a full life ahead cannot be deprived of his liberties. The petitioner has been in jail for over 12 months and is being subjected to be in the company of hardened criminals. This would do more harm than good to a common man of 21 years of age. In the facts and circumstances of the case, this Court



thinks that the petitioner's case should be considered adequately.

xxx xxx xxx”

(Emphasis Supplied)

22. This Court notes that there are 19 prosecution witnesses, out of which, only the victim and her father have been examined. Therefore, the Trial would take time to conclude. Additionally, the applicant has no criminal antecedents. Further, the applicant and the victim do not reside in the same locality but far away in different parts of the city.

23. Accordingly, in the facts and circumstances of the present case, this Court is inclined to grant bail to the applicant subject to personal bond in the sum of Rs. 30,000/-, with one surety of the like amount to the satisfaction of the Trial Court/Duty Magistrate, with further conditions as follows:

- a. The applicant shall appear before the Trial Court on each and every date of hearing;
- b. The applicant shall provide his permanent address to the Investigating Officer (“IO”), as also the address where he is residing during the pendency of the case. The applicant shall intimate the IO, and file an Affidavit before the Trial Court regarding any change in residential address;
- c. The applicant shall provide his mobile number to the concerned IO/Station House Officer (“SHO”), which shall be kept in working condition at all times. The mobile number shall not be switched off or changed without prior intimation to the IO during the pendency of the trial;
- d. The applicant shall report to the jurisdictional PS on every Monday at 09:00 AM, and shall be released, within two hours after completion of



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formalities;

- e. 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. The IO is directed to monitor the situation and, in the event of any complaint being made, to inquire into the same in accordance with law;
 - f. The applicant shall not commit any offence during the period of his release.
24. The present bail application is allowed and accordingly disposed of in aforesaid terms.
25. It is clarified that any observations made in the present order are solely for the purpose of deciding the present bail application, and shall neither influence the trial proceedings, nor be construed as an expression of opinion on the merits of the case.
26. Copy of the order be communicated to the concerned Jail Superintendent electronically for information and necessary compliance.

MINI PUSHKARNA, J

OCTOBER 6, 2026/KR/SK