

(2025) 07 DEL CK 1009
In the Delhi High Court
Case No : Bail Application No. 1754 Of 2024

Deepak Mishra

APPELLANT

Vs

Nct Of Delhi

RESPONDENT

Date of Decision : 30-07-2025

Acts Referred:

Constitution of India, 1950 — Article 21
Code of Criminal Procedure, 1973 — Section 164, 439
Indian Penal Code, 1860 — Section 354(A), 354(D), 376, 506

Citation : (2025) 07 DEL CK 1009

Hon'ble Judges : Ravinder Dudeja, J

Bench : Single Bench

Advocate : Tahir Ali, Sajid Ansari, Shahid Ahmad, Afreen Khan, Divyanshu Jain, Hitesh Vali, Bahuli Sharma

Final Decision : Disposed Of

Judgement

Ravinder Dudeja, J.

1. The present application has been filed under section 439 CrP.C., seeking the grant of regular bail to the applicant in case FIR bearing no. 297/2022 registered under sections 354(A)/ 354(D)/ 506/ 376 IPC at PS Kirti Nagar.

2. As per allegations, a former acquaintance of the complainant, had been harassing and threatening her for over two years through calls, messages, and social media. Despite repeatedly blocking his numbers, he continued to contact her using different phone numbers, created fake social media profiles in her name, and shared her personal photos with her friends and family. He even physically stalked her outside her office and residence, issued threats to kill her, and coerced her into maintaining contact under threat of public defamation. The complainant approached police and filed multiple complaints, ultimately leading to the registration of an FIR under Sections 354A, 354D, and 506 IPC.

3. Later, in her statement under Section 164 CrPC, the prosecutix revealed that

the applicant had also established physical relationship with her on false promise of marriage, resulting in pregnancy, which he forcibly terminated by giving her medication. After she distanced herself from him, the applicant resumed threats, including acid attack threats and extortion for sexual favours. The applicant allegedly circulated her intimate photos to relatives and continued his conduct even after repeated police interventions. Based on her statement and supporting evidence, the applicant was arrested, and chargesheet under Sections 354A, 354D, 506, and 376 IPC was filed against him.

4. Learned counsel for the applicant submitted that there is an inordinate delay of approximately four years in the registration of the FIR, which casts doubt on the veracity of the allegations. It was contended that the charge sheet has already been filed, the evidence of the complainant has been completed, and no other public witness remains to be examined. The applicant is stated to be the sole breadwinner of his family, with his father currently bedridden due to paralysis. It was further submitted that the complainant, who is the star witness, has been examined and discharged, and has not supported the prosecution case in material particulars.

5. It was also argued that the complainant made substantial improvements in her version during the recording of her statement under Section 164 CrPC, as no allegations of rape were made in her initial complaint. The complainant herself admitted to being in relationship with the applicant since 2018, and the allegation of rape surfaced only later. Further, no investigation report has been placed on record to conclusively establish that the mobile number in question belongs to the applicant. It was lastly submitted that the applicant is already on bail in previous criminal cases and has remained in custody in the present case since 24.03.2022, i.e., for a period exceeding three years.

6. Learned APP for the State opposed the bail application, submitting that the applicant has prior criminal antecedents and is involved in three other criminal cases. It is alleged that the applicant established sexual relations with the complainant on false promise of marriage. The complainant and the applicant were known to each other and had worked together at a call center. After the complainant left the job, the applicant reconnected with her, introduced her to his relatives, and subsequently developed physical relations with her on the pretext of marrying her.

7. Learned counsel for the complainant opposed the bail application, submitting that the applicant deliberately concealed his prior criminal antecedents, which he was duty-bound to disclose, as held by the Supreme Court in *Kaushal Singh v. State of Rajasthan* 2025 INSC 871. It was submitted that the present case pertains to a prolonged period of harassment, threats, stalking, and sexual exploitation of the complainant from 2018 to 2022. The applicant allegedly threatened to throw acid on the complainant's face, and on one occasion, even arrived at her residence with a rod, which clearly establishes a pattern of intimidating and violent conduct. Specific instances of harassment and threats

have been detailed in both the FIR and the complainant's statement under Section 164 CrPC. It was further submitted that the complainant conceived during the course of the relationship and was compelled to abort the pregnancy using medication provided by the applicant.

8. It has been further submitted that the testimony of the complainant has been concluded and her apprehension regarding potential harm remains real and serious, especially if the applicant is released on bail. It was pointed out, that the applicant, despite being on bail in another criminal matter, continued to threaten and harass the complainant. Furthermore, the applicant's involvement in three other criminal cases, including one where he was already on bail, reinforces the argument that he is a habitual offender and not entitled to the discretionary relief of bail. It was emphasized that bail should be granted judiciously and not to an accused who has suppressed material facts, including his criminal history. Reliance was again placed on the decision in Kaushal Singh (supra) to state that suppression of antecedents is a serious ground to deny bail.

9. The court has considered the rival submissions made by the learned counsel for both the parties and also has perused the documents placed on record. Admittedly that there is a considerable delay of nearly four years in the registration of the FIR. Such delay, when the parties admittedly shared a long-standing personal relationship, raises doubts as to the spontaneity and credibility of the allegations. More pertinently, the charge sheet has already been filed, and the complainant being the primary witness, has been examined and discharged. No other material public witness remains to be examined. In such circumstances, the risk of the applicant tampering with evidence or influencing witnesses is substantially mitigated.

10. The Court also takes note of the material inconsistencies between the complainant's initial complaint and her subsequent statement under Section 164 Cr.P.C., particularly regarding the allegation of rape. The belated accusation of rape, in such circumstance, is a fact of important consideration at the bail stage. These are matters best tested at trial and do not warrant prolonged incarceration at the pre-trial stage. Prima facie, the contradictions call for a cautious judicial approach.

11. In the case of B.N. John v. State of U.P. &Anr., SLP (Crl.) No. 2184/2024, the Supreme Court held that the omission of crucial facts in the FIR, which are later introduced without adequate explanation, may indicate an afterthought and cast doubt on the credibility of the prosecution's case. Similarly, in Jalaluddin Khan v. Union of India, Criminal Appeal No. 3173/2024, the Supreme Court reiterated that the rule of bail being the norm and jail the exception applies even in cases involving grave allegations if statutory conditions are fulfilled. In the present case, material inconsistencies, and apparent delay in registration of FIR weakens the prosecution version. These deficiencies justify the grant of Regular bail subject to appropriate conditions.

12. Further, the applicant has already undergone more than three years of custody since 24.03.2022, while the trial remains pending. The right to speedy trial is a fundamental right under Article 21 of the Constitution, and continued detention, in the absence of compelling reasons, would amount to punishment before conviction. Given that the complainant has been examined and there is no real apprehension of witness tampering, the continued incarceration of the applicant cannot be justified. The Court must balance societal interest with individual liberty. Bail is the rule, and jail is the exception, particularly when trial is protracted.

13. In *State of U.P. v. Amarmani Tripathi* (2005) 8 SCC 21, the Supreme Court laid down the settled parameters for consideration of bail, emphasizing that the decision must rest on a cumulative assessment of several factors. These include: (i) whether there exists a prima facie or reasonable ground to believe that the accused has committed the offence; (ii) the nature and gravity of the charge; (iii) the severity of the punishment in the event of conviction; (iv) the likelihood of the accused absconding or fleeing if granted bail; (v) the character, behaviour, means, position, and standing of the accused; (vi) the probability of the offence being repeated; (vii) the reasonable apprehension of witnesses being influenced or tampered with, and (viii) the risk of justice being thwarted by the grant of bail. The Court clarified that mere vague apprehensions about tampering with evidence cannot suffice to deny bail unless there is material showing that the accused, if at large, is likely to subvert justice or intimidate witnesses. These principles were earlier affirmed in *Prahlad Singh Bhati v. State (NCT of Delhi)* (2001) 4 SCC 280, and *Gurcharan Singh v. State (NCT of Delhi)* (1978) 1 SCC 118, and further reinforced in *Kalyan Chandra Sarkar v. Rajesh Ranjan* (2004) 7 SCC 528, where the Court reiterated that the liberty of an individual must be balanced against the necessity of ensuring a fair trial and safeguarding the integrity of the judicial process.

14. In the present case, the applicant and the complainant were known to each other and the testimony of the complainant made in the Trial Court is indicative enough that the complainant and the applicant knew each other since 2018 and their relationship started subsequent to that when she met the brother and sister-in-law of the applicant. The allegations of sexual harassment were not initially mentioned in the FIR and was subsequently added in the charge sheet after she made her statements under section 164 CrPC. The complainant alleged that despite being on bail in the other cases that he is involved in, he still harassed and threatened the complainant. These allegations of rape is mentioned in her testimony made in front of the Trial Court but are silent in the FIR.

15. Although it is submitted that the applicant has previous criminal antecedents, there is no cogent material placed on record to show that he misused the liberty granted in those matters or that he has, since his arrest in the present case, sought to intimidate or influence the complainant. The prosecution has failed to establish that his release on bail would pose any real threat to the administration

of justice.

16. In view of the above factors namely, the prolonged judicial custody, completion of examination of key prosecution witnesses, contradictions in material statements, and absence of any demonstrated risk of tampering, this Court is inclined to allow the present application. Accordingly, the applicant is admitted to bail upon his furnishing a personal bond in the sum of Rs. 30,000/- with a surety of like amount to the satisfaction of the trial Court, subject to the conditions that he shall not contact the complainant or threaten/intimidate the complainant, shall not leave the jurisdiction of the Court without prior permission of the Trial Court, and shall appear before the Trial Court on every date fixed. The application stands disposed of.

17. Needless to state, any observations made in the present order are for the purpose of deciding the present bail application 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.