

(2025) 07 DEL CK 0966

In the Delhi High Court

Case No : Bail Application No. 2727 Of 2025 & Criminal Miscellaneous Petition
No. 21326 Of 2025

Mohammad Shahid @ Sahid

APPELLANT

Vs

State Of (Nct) Of Delhi & Anr

RESPONDENT

Date of Decision : 24-07-2025

Acts Referred:

Indian Penal Code, 1860 — Section 342, 354(D), 376, 506
Protection of Children from Sexual Offences Act, 2012 — Section 6, 12

Citation : (2025) 07 DEL CK 0966

Hon'ble Judges : Girish Kathpalia, J

Bench : Single Bench

Advocate : Raj Kishore Choudhary, Shalini Tripathi, Pratibha Singh, Amit
Ahalawat

Final Decision : Dismissed

Judgement

Girish Kathpalia, J

1. The accused/applicant seeks regular bail in case FIR No. 115/2024 of PS Vikaspuri for offence under Section 376/342/354(D)/506 IPC and Section 06/12 POCSO Act.

2. Briefly stated, the prosecution case is as follows. In the month of April 2023, the accused/applicant, working as a construction labourer in NDMC Apartments, Vikaspuri allured the prosecutrix, minor in age, with his sweet talk and they became friends. But thereafter, one day the accused/applicant allured the prosecutrix to a deserted ground floor apartment which was under construction. Over there, the accused/applicant raped the prosecutrix and even threatened her not to disclose the incident to anyone. Even thereafter, till November 2023, the accused/applicant repeatedly raped the minor aged prosecutrix.

3. Learned counsel for accused/applicant submits that at the time of the alleged incidents, the prosecutrix was major in age. For this claim, learned counsel refers

to the testimony of PW-2 mother of prosecutrix, who stated before the Trial Court that she got married in the year 2000 and within two years the prosecutrix was born. It is further argued by learned counsel that it is a clear case of consensual relations between the prosecutrix and the accused/applicant. For this, learned counsel for accused/applicant, refers to the FIR, which mentions that the prosecutrix became friends with the accused/applicant.

4. Learned APP accepts notice and strongly opposes the bail application in view of seriousness of the allegations involving repeated rape of the minor girl.

5. So far as the argument about the prosecutrix having attained the age of majority is concerned, a single handpicked line from the testimony of her mother cannot be read in isolation of the remaining material on record. The prosecution has filed along with the chargesheet, the educational record of the prosecutrix to establish her age and that record shall be proved by the Principal of the said educational institution, named in the list of witnesses attached with the chargesheet. It is trite that at the stage of considering a bail application, the Court cannot minutely examine the evidence. Admittedly, the prosecutrix in her testimony as PW-1 and her mother in her testimony as PW-2 have supported the entire prosecution case pertaining to the alleged offence.

6. As regards the argument of it being a case of consensual relations, merely because a girl befriends a boy, the latter cannot be given liberty to indulge into sexual intercourse with her without her consent. Further, even the consent would not be lawful in the present case because the prosecutrix was minor in age. Rather, as specifically stated by the prosecutrix in the FIR as well as her testimony, the accused/applicant repeatedly indulged in sexual intercourse with her despite her objections. I am unable to find it a case of consensual relations merely because in the FIR the prosecutrix stated that the accused/applicant with his sweet talk befriended her.

7. In view of gravity of the alleged offence, this is not a fit case to grant bail to the accused/applicant. The bail application is dismissed. Pending application also stands disposed of.