

(2025) 07 DEL CK 0995
In the Delhi High Court
Case No : Bail Application No. 2318 Of 2025

Shahid Hussain

APPELLANT

Vs

State Nct Of Delhi & Anr

RESPONDENT

Date of Decision : 29-07-2025

Acts Referred:

Indian Penal Code, 1860 — Section 376, 384, 506

Citation : (2025) 07 DEL CK 0995

Hon'ble Judges : Girish Kathpalia, J

Bench : Single Bench

Advocate : Tusharjeet Singh, Nawal Kishore Jha, Ritu

Final Decision : Allowed

Judgement

Girish Kathpalia, J

1. In pre-lunch session, the matter was passed over at request of learned counsel for the prosecutrix. In this call, I have heard all present including the prosecutrix.
2. The accused/applicant, suffering incarceration since 27.02.2025, seeks regular bail in case FIR No. 95/2025 of PS Mahindra Park, New Delhi for offence under Section 376/384/506 IPC.
3. On behalf of the State, status report filed by learned APP is accepted across the board, to be scanned and made part of the record.
4. On behalf of the accused/applicant, it is argued that the prosecutrix is aged about 46 years and the overall complaint clearly shows that the relations between the prosecutrix and the accused/applicant were consensual relations and the present case got registered because prosecutrix owed to the accused/applicant a sum of Rs. 50,000/- regarding which a complaint dated 12.01.2023 was lodged and the same culminated into a compromise dated 23.01.2023. It is further argued by learned counsel for the accused/applicant that the present

complaint, lodged three years after the alleged incident does not inspire confidence.

5. Learned APP, in all fairness expresses no serious objection to this bail application, especially because of unexplained delay in lodging of complaint by the prosecutrix and refusal of the prosecutrix to undergo medical examination.

6. Learned counsel for prosecutrix submits that there is no delay in lodging of complaint because all through, the prosecutrix was repeatedly lodging complaints but the police was not taking any action. In this regard, learned counsel for prosecutrix read over to me the first complaint lodged by the prosecutrix in December 2022, which was followed by the complaint dated 12.01.2023 and the subsequent complaint dated 20.06.2024, after which the complaint dated 27.02.2025 culminating in the present FIR was lodged.

7. Broadly speaking, the allegations levelled by the prosecutrix in the FIR are as follows. The prosecutrix, who lost her husband in the year 2010 and is living with her two grown-up sons, met the accused/applicant in the year 2020 through Instagram and the accused/applicant claimed that he resided in Saudi Arabia and would get her sons employed there. In the month of December 2021, the accused/applicant came to India and she arranged a residence for him on rent. One day, the accused/applicant called her to his room and made her consume some sweets and water from a bottle, after which although she was conscious, but she could not object to anything and at that time he developed physical relations with her and also clicked her nude pictures and videos. Thereafter, for next 15 days he called her to his room repeatedly and after threatening to circulate those pictures, established physical relations with her. The accused/applicant also got her pictures clicked with vermilion on her forehead on the pretext that with such photographs it would be easier for him to take her to Saudi Arabia. However, when she refused to accompany him to Saudi Arabia, he took cash Rs.1,20,000/- from her after threatening her with the said pictures and videos. In February 2022, the accused/applicant went back to Saudi Arabia after posting her pictures on his Instagram ID. The accused/applicant would post her pictures on the Instagram and after few days, he would remove them and upload more pictures, regarding which she lodged a complaint in the year 2022 at Model Town Cyber Police Station. Even thereafter, the accused/applicant continued to upload her pictures on Instagram, so she blocked him on all social sites.

8. In the above backdrop, learned counsel for prosecutrix was called upon to show the first complaint lodged by the prosecutrix alleging rape against the accused/applicant. In response, learned counsel for prosecutrix submitted that the first complaint alleging rape is dated 20.06.2024. As mentioned above, according to the prosecutrix it is in December, 2021 that for first time she was administered some intoxicant and raped. Thereafter, she lodged complaint in December, 2022 followed by another complaint on 12.01.2023 also, but neither of those complaints alleges any intoxication or rape. The present FIR was registered on complaint dated 27.02.2025.

9. The other allegation against the accused/applicant is that he clicked nude pictures and videos of the prosecutrix and uploaded the same on Instagram. In this regard, the IO produced the investigation file, which contains certain pictures of the prosecutrix and the accused/applicant, but none of those pictures is nude or otherwise objectionable. Learned counsel for prosecutrix also showed certain pictures on her mobile phone, but even those are not objectionable in any manner, what to say of nude pictures.

10. Apart from these, there is no picture or video of the prosecutrix either with the investigating agency or even with the prosecutrix herself. This is not a case where the accused/applicant had posted the objectionable pictures and removed them within few minutes. As stated in the FIR itself, the accused/applicant would remove/replace the pictures only after a few days of posting the same.

11. Rather, all those pictures (available in investigation file and showed on mobile phone of the prosecutrix) depict the accused/applicant and the prosecutrix in a manner which lends credence to the contention of learned counsel for accused/applicant that there were consensual relations between them.

12. Considering the above circumstances, I find no reason to further deny liberty to the accused/applicant. Therefore, this bail application is allowed and it is directed that the accused/applicant 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.

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