

(2026) 02 DEL CK 1697

In the Delhi High Court

Case No : Bail Application No. 3062 Of 2024

Sheikh Asikul

APPELLANT

Vs

State Of Nct Of Delhi And Anr.

RESPONDENT

Date of Decision : 13-02-2026

Acts Referred:

Code of Criminal Procedure, 1973 — Section 164
Indian Penal Code, 1860 — Section 34, 323, 342, 376D
Protection of Children from Sexual Offences Act, 2012 — Section 6

Citation : (2026) 02 DEL CK 1697

Hon'ble Judges : Girish Kathpalia, J

Bench : Single Bench

Advocate : Pritish Sabharwal, Sanjeet Kumar, Shweta Singh, Shiv Chopra, Amit Ahlawat, Gunjan Sinha Jain, Sakshi

Final Decision : Allowed

Judgement

Girish Kathpalia, J

1. The applicant/accused seeks regular bail in case FIR No. 110/2018 of Police Station Govind Puri for the offence under Section 323/342/376D/34 IPC & Section 6 POCSO Act. I have heard learned counsel for accused/applicant and learned APP for State as well as learned counsel for prosecutrix.

2. Broadly speaking, the prosecution case is as follows. The prosecutrix, a resident of Bangladesh, immigrated to India and she is not conversant with any language other than Bangla. With the help of translator, on her complaint the FIR was registered alleging that about five months back, she was brought from Kolkata by the accused/applicant with the promise to give job and she stayed in his house where two more persons including his brother Raju Sheikh were residing. Those three persons including the accused/applicant repeatedly raped her, due to which she conceived. Whenever she would object, all three of them would beat her up and forcibly rape her. During that period, Raju Sheikh also got issued an Aadhar Card in her name. Thereafter, on the promise of giving her job

one Farida Begum took the prosecutrix to the Jaipur but on account of some dispute between Farida Begum and her husband the prosecutrix ran away and reached the police station. No wrong was committed against her in Jaipur.

3. In the above backdrop, learned counsel for accused/applicant submits that all public witnesses including the prosecutrix stand examined and going by the evidence brought on record, conviction of the accused/applicant for the alleged offences is not possible. It is contended that according to the evidence on record, the prosecutrix was aged above 18 years at the time of registration of the FIR and as regards the time of the alleged rape, no specific period has been disclosed. Further, it is contended that the conduct of the prosecutrix in remaining silent throughout especially during her travel from Delhi to Jaipur shows that her testimony is not truthful. In this regard, learned counsel for accused/applicant has also taken me through statement of prosecutrix recorded under Section 164 CrPC as well as her testimony in trial. Further, it is contended that the prosecutrix, legality of whose immigration to Delhi was not even investigated, has gone back to Bangladesh even according to the prosecution, so there is no scope of any pressure on her.

4. Learned APP for State and learned counsel for prosecutrix oppose the bail application, submitting that as per the ossification report, the estimated age of the prosecutrix in January 2019 was 17-19 years and accordingly, at the time of the alleged offence she was less than 18 years, so her consent is immaterial. It is also contended that the accused/applicant extended false promise to get married, which led the prosecutrix agree for sexual relations.

5. Merely because, the offence with which the accused/applicant has been charged is under the POCSO Act, it does not mean that the accused/applicant be kept in jail endlessly, ignoring the record. As mentioned above, prosecution is unable to specify the dates or even period during which the prosecutrix was allegedly raped; the only period of relevance would be the date 31.03.2018, when the FIR was registered. According to ossification report Annexure P4 to the bail application, the estimated radiological bone age of the prosecutrix in the month of January 2019 was 17-19 years. For present purposes, it cannot be disputed that at the time of the alleged occurrence, the prosecutrix had attained the age of majority or at least she was nearing that age and fully conscious about her choices.

6. The complete silence of the prosecutrix across the entire period when she remained in Delhi followed by her travel to Jaipur, coupled with no complaint from her side to even Farida Begum with whom she travelled to Jaipur, conveys a reasonable impression that she indulged in sexual relations with the accused/applicant with consent.

7. As regards obtaining the consent on the pretext of false promise of getting married, as per her testimony, the prosecutrix was completely aware that the accused/applicant was already married.

8. Of course, the above observations are yet to be tested by way of final deliberations by the trial court. But for present purposes, the above circumstances cannot be ignored.

9. Therefore, the bail application is allowed and 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 Trial Court.

10. A copy of this order be immediately transmitted to the concerned Jail Superintendent for informing the accused/applicant.