

**(2025) 12 DEL CK 0012**

**Delhi HC**

**Case No:** Bail Application No. 2478 Of 2025 & Criminal Miscellaneous Application No.  
19469 Of 2025

Sagar

APPELLANT

Vs

State Of Nct Of Delhi & Anr

RESPONDENT

---

**Date of Decision:** Dec. 15, 2025

**Acts Referred:**

- Indian Penal Code, 1860- Section 376
- Protection of Children from Sexual Offences Act, 2012- Section 6

**Hon'ble Judges:** Amit Mahajan, J

**Bench:** Single Bench

**Advocate:** Suraj Prakash, Tarun Goyal, Sunil Kumar Gautam, Shaurya Singh

**Final Decision:** Allowed

---

### **Judgement**

Amit Mahajan, J

1. The present application is filed seeking grant of regular bail in FIR No. 1016/2022 dated 02.10.2022 registered at Police Station Subhash Place for the offences under Section 376 of the Indian Penal Code, 1860 (IPC) and Section 6 of the Protection of Children from Sexual Offences Act, 2012 (POCSO).

2. Succinctly stated, FIR in the present case was registered pursuant to a complaint made by the minor victim. It is alleged that on 02.10.2022, the victim was sitting with her uncle and siblings at a tea shop, whereafter she went to urinate between the wall of a nearby school and a car. It is alleged that while the victim was urinating, the applicant came from behind her, held her mouth and inserted his finger in her private part. It is alleged that thereafter, the victim started screaming, pursuant to which her uncle arrived at the spot along with other people who apprehended and beat the applicant. It is alleged that thereafter, the mother of the victim arrived at the spot and called the police.

3. The learned counsel for the applicant submits that the applicant is innocent and has been falsely implicated in the present case.
4. He submits that the first regular bail application of the applicant was dismissed as withdrawn vide order dated 15.03.2024 with the liberty to file afresh after the examination of the mother and uncle of the victim. He submits that thereafter the regular bail application of the applicant was dismissed as withdrawn vide order dated 28.11.2024, with the direction to the learned Trial Court to expediate the recording of evidence and granting liberty to the applicant to file an application afresh if the trial is not concluded within six months. He submits that the regular bail application of the applicant has never been heard on merits.
5. He submits that the prosecution has failed to join any independent witness in the present case despite the fact that the alleged incident took place at a public place in broad daylight.
6. He submits that the alleged incident took place near the walls of a nearby school, however, the principal of the said school was served a notice in order to obtain the CCTV footage after a gap of 29 days, when it was stated to be not working. He submits that the investigating officer deliberately delayed in sending the notice to the principal in order to conceal the contents of the same.
7. He submits that the victim and her mother have already been examined and only the examination of official witnesses is left, thus there is no apprehension of the applicant threatening the witnesses.
8. He submits that the applicant has been languishing in custody for more than three years and only 5 out of 22 witnesses have been examined, thus the trial is likely to take a long time to conclude.
9. He submits that there is a monetary dispute between the applicant and the uncle of the victim and the possibility of false implication of the applicant in the present case cannot be ruled out.
10. Per Contra, the learned Additional Public Prosecutor of the State vehemently opposes the grant of any relief to the applicant. He submits that the allegations against the applicant are grave in nature.
11. He submits that the victim in the present case is only 11 years old. He submits that the material witnesses in the present case have been examined and have supported the case of the prosecution.
12. He submits that the applicant was apprehended at the place of incidence by the public when they heard the victim screaming.
13. The learned counsel for the victim seconds the arguments addressed by the learned APP and further submits that the school estate manager had categorically stated that the school was under the process of being shifted due to which the

CCTV cameras were not functioning on the date of the incident.

14. She submits that the applicant and victim reside in the same area and there is apprehension that he may contact or harm the victim.

15. I have heard the counsel and perused the record.

16. It is settled law that the Court, while considering the application for grant of bail, has to keep certain factors in mind, such as, whether there is a prima facie case or reasonable ground to believe that the accused has committed the offence; circumstances which are peculiar to the accused; likelihood of the offence being repeated; the nature and gravity of the accusation; severity of the punishment in the event of conviction; the danger of the accused absconding or fleeing if released on bail; reasonable apprehension of the witnesses being threatened; etc.

17. It is the case of the prosecution that while the victim was urinating next to a wall of a school, the applicant came from behind, held her mouth and inserted his finger in her private part. Whereafter, the victim allegedly screamed and the applicant was apprehended by the victims uncle and other people who were nearby.

18. It is pertinent to note that as per the case of the prosecution the incident occurred at a public place, next to the wall of a school and in broad daylight and the applicant was apprehended at the spot by the victims uncle and other people present at the spot. However, no independent witnesses have been made to join the investigation in order to corroborate the case of the prosecution.

19. Additionally, the alleged incident occurred next to the wall of a school where CCTV cameras are installed but the same were found to be not working. It has also been contended by the learned counsel of the applicant that the uncle of the victim had certain monetary disputes with the applicant and the aspect of false implication of the applicant can also not be ruled out.

20. Undisputedly, the accused can be convicted on the statement of the victim and the same does not require corroboration if it inspires confidence. However, when the incident is alleged to have taken place in a public area in broad daylight, not joining independent witnesses and the absence of any CCTV footage cast some doubt in the case of the prosecution and can only be determined after the entire evidence is led. The benefit of the same cannot be denied to the accused at the stage of bail specially when he has spent substantial time in custody.

21. It is also relevant to note that the victim, her mother and her uncle have already been examined and hence, there is no threat of the applicant influencing them if granted bail.

22. It is pertinent to note that the applicant has been in custody since 13.10.2022 and the trial has not proceeded much. It is pointed out that only five out of twenty-two witnesses have been examined till date. This Court vide order dated

28.11.2024, requested the learned Trial Court to expedite the recording of evidence in the present case and granted liberty to the applicant to file a bail application afresh if the trial did not conclude within a period of six months. The applicant has suffered incarceration for a significant period of time.

23. The Honble Apex Court in the case of **Union of India v. K.A. Najeer**: AIR 2021 SC 712 held that once it is obvious that a timely trial would not be possible, and the accused has suffered incarceration for a significant period of time, the courts would ordinarily be obligated to enlarge them on bail.

24. The object of jail is to secure the appearance of the accused during the trial. The object is neither punitive nor preventive and the deprivation of liberty has been considered as a punishment.

25. Without commenting further on the merits of the case, in the opinion of this Court, the applicant has made out a prima facie case for grant of bail.

26. Although it has been contended that the residence of the applicant is in the same vicinity as the victim and there is apprehension that he may contact or harm the victim, the learned counsel of the applicant undertakes on behalf of the applicant that he shall not live in the same vicinity as the victim upon being released on bail. Even otherwise, appropriate conditions can be imposed to ascertain that the applicant does not live in the vicinity of the victim or contact her.

27. In view of the above, the applicant is directed to be released on bail on furnishing a personal bond for a sum of ₹25,000/- with two sureties of the like amount, subject to the satisfaction of the learned Trial Court, on the following conditions:

- a. 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;
- b. The applicant shall under no circumstance contact the complainant / other witnesses or the family members of the complainant;
- c. The applicant shall under no circumstance leave the boundaries of the country without taking permission of the learned Trial Court;
- d. The applicant shall appear before the learned Trial Court as and when directed;
- e. The applicant shall provide the address where he would be residing after his release and shall not change the address without informing the concerned IO/ SHO;
- f. The applicant shall not reside within a 5km radius of where the victim resides.
- g. The applicant shall, upon his release, give his mobile number to the concerned IO/SHO and shall keep his mobile phone switched on at all times.

28. In the event of there being any FIR/ DD entry/ complaint lodged against the applicant, it would be open to the State to seek redressal by filing an application seeking cancellation of bail.

29. It is clarified that 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.

30. The bail application is allowed in the aforementioned terms. Pending application also stands disposed of.