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IN THE HIGH COURT OF DELHI AT NEW DELHI

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BAIL APPLN. 532/2025 & CRL.M.A. 11214/2025

JASWANT SINGH

.....Petitioner

Through: Mr. Abhishek Singh, Advocate.

versus

STATE OF NCT OF DELHI

.....Respondent

Through: Mr. Mukesh Kumar, APP.

SI Achla Rani, PS: Paschim Vihar
West.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

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24.07.2025

1. The present application filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023¹ (corresponding to Section 439 of the Code of Criminal Procedure, 1973²) seeks regular bail in the proceedings arising from FIR No. 0268/2024 dated 13th March, 2024, registered under Sections 306, 363, 366 and 376 of the Indian Penal Code, 1860³ and Sections 4 and 6 of Protection of Children from Sexual Offences Act 2012⁴ at P.S. Paschim Vihar West, Delhi.

2. The case of the prosecution, in brief, is as follows:

2.1. On 11th March, 2024, a PCR call recorded as DD No. 30A was received at P.S. Paschim Vihar, regarding the suicide of a young female. The call was assigned to SI Vijay for necessary action. On reaching the location, the officer found no one present. He thereafter contacted the caller, Jaswant Singh (the Applicant), who informed him that he had already taken

¹ "BNSS"

² "CrPC"

³ "IPC"

⁴ "POCSO Act"



the victim to Sanjay Gandhi Memorial Hospital in a PCR van. SI Vijay then reached the hospital and collected MLC No. 4042/2024 which recorded the cause of death as “*hanging*”. Thereafter, he returned to the place of occurrence along with the Applicant and conducted a spot inspection.

2.2. Subsequently, the Investigating Officer contacted the deceased’s elder sister, Ms. ‘X’, and informed her about the incident. On 13th March, 2024, her statement was recorded, based on which the present FIR was registered. In her statement, Ms. ‘X’ stated that both she and the deceased were employed at an ITI, that was under construction near their village. The Applicant, who was working as a Clerk/Munshi at the same site, had allegedly lured the deceased and developed physical relations with her. Later, he took her away with him. Over time, she came to learn that the deceased was approximately two months into her gestation, and that the Applicant had been subjecting her to physical abuse. She alleged that the cumulative effect of his conduct drove the deceased to end her life.

3. The Applicant, who is 34 years of age, seeks to justify his alleged relationship with the deceased, who was approximately sixteen and a half years old at the time of the incident, on the ground that it was consensual and within the bounds of a purported marriage. He further argues that the pregnancy resulting from the relationship was consensual and, therefore, not attract the offence under Section 376 of IPC.

4. The Court, however, finds the Applicant’s plea of a consensual relationship masked as marriage to be wholly untenable and misconceived. The Applicant, being 34 years old, was more than twice the age of the victim. This glaring age gap raises serious concerns about exploitation, undue influence, and manipulation, especially in a setting where the victim



was economically and socially vulnerable. The disparity between them is not merely numerical but speaks to a fundamental imbalance that renders any notion of consent illusory. Moreover, a marriage with a minor is not only invalid under Indian law but also irrelevant for the purpose of determining the applicability of the offence of rape when the prosecutrix is under the age of consent. In other words, the purported marriage, in this context, is legally void and cannot be invoked to sanitize what the law defines as statutory rape. The Court draws strength from the landmark judgment of the Supreme Court in *Independent Thought v. Union of India*⁵, where Exception 2 to Section 375 IPC, which earlier provided that sexual intercourse or acts by a man with his own wife, who was not under the age of fifteen, did not amount to rape, was struck down. This precedent renders the Applicant's defence based on marriage legally untenable.

5. Further, the Court is not persuaded by the Applicant's alternative argument that the deceased was, in fact, nineteen years old at the time of the alleged incident. Such a factual dispute must be determined during the course of trial, by adducing appropriate evidence. It cannot form the basis for the grant of bail at this stage, especially when the allegations involve a minor.

6. The circumstances of the case where the deceased appears to have been lured, sexually assaulted which resulted in pregnancy, and allegedly subjected to physical abuse, point not only to the offence of statutory rape under Section 376 of IPC, but may also attract aggravated penetrative sexual assault under POCSO, having regard to the Applicant's position vis-à-vis the minor. The Court cannot ignore the possibility that the deceased's extreme

⁵ (2017) 10 SCC 800.



step may have been triggered by such abuse, further amplifying the gravity of the allegations. Thus, given the gravity of the accusations against the Applicant, the risk of tampering of evidence and flight risk, and the broader public interest in deterring sexual offences against children, in the *prima facie* opinion of this Court, the Applicant does not deserve the discretionary relief of bail at the present stage.

7. Dismissed along with pending application.

SANJEEV NARULA, J

JULY 24, 2025

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