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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **BAIL APPLN. 2867/2025**

HAMID RAZA

.....Petitioner

Through: Mr. Furkan Ali Mirza, Mr. Asim Kirmani, Mr. Haris Ahmad and Mr. Abdul Wasih, Advocates
Petitioner in person in custody

versus

STATE OF NCT OF DELHI

.....Respondent

Through: Mr. Sanjeev Sabharwal, APP for State
with ASI Rakesh
with Prosecutrix and her minor son

Ms. Nandita Rao, Senior Advocate
(Amicus Curiae) with Mr. Amit Peswani, Advocate

Professor Faizan Mustafa, Vice
Chancellor, Chanakya National Law
University (Expert Islamic Law)

Dr. MOhd. Khalid Khan, Dept. Of
Islami Studies, Jamia Milia Islamia,
New Delhi.

Mr. Nehal Ahmed, Assistant
Professor of Law, Woxsen University
Hyderabad, Islamic Law Expert.

CORAM:

HON'BLE MR. JUSTICE ARUN MONGA

ORDER

19.09.2025

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1. It is indeed a most peculiar case herein. One, where there is neither a



victim, nor a victimizer, nor even a complainant, yet the petitioner (24 year old) is alleged to be in conflict with law. The prosecution's case rests solely on the assertion that the prosecutrix (claiming herself now to be 20 year old), admittedly his wife, was since a minor at the time of their consensual relationship, thereby rendering her consent legally irrelevant.

2. What makes the matter more conspicuous is that the two of them, subsequent to the consensual relationship, married under Islamic Law, a valid marriage certificate issued by the Qazi has been placed on record, and the couple has even been blessed with a son.

3. The prosecutrix herself, present before this Court along with her infant son, is forcibly confined in a Child Welfare Centre (Nirmal Chhaya), describing it as nothing short of imprisonment without any fault of her own.

4. Simultaneously, the petitioner languishes in jail during the pendency of trial arising from the FIR No. 390/2024 dated 15.06.2024 under Section 363/376 of the IPC and 6 of the POCSO Act. Thus, both husband and wife find themselves deprived of liberty in a case where neither considers the other a victim.

5. Having heard the arguments on some length, I am of the view that the petitioner, who is present in Court, deserves to be set free forthwith on an interim bail pending the final view to be taken by this Court for which the matter is adjourned for 23.09.2025.

6. Accordingly, the petitioner is directed to furnish a personal bond for a sum of Rs.10,000/- before the Jail Superintendent and in compliance thereof, he shall be set free till next date of hearing, as above. The police personnel who has brought him in Court shall ensure his presence on the next date of hearing as well.



7. Likewise his wife, i.e., the prosecutrix, who is present in Court, shall also remain present on the next date of hearing for which Child Welfare Centre shall make adequate arrangement.
8. In the meanwhile, the petitioner shall be allowed to meet the prosecutrix and his minor son between 3 PM to 5 PM two hours everyday at the Child Welfare Centre (Nirmal Chhaya).
9. A copy of the order be conveyed through e mail to the Jail Superintendent to carry out the compliance. The Jail Superintendent shall ensure that the petitioner is released on interim bail before 5 PM today.
10. This Court also deeply appreciates the assistance rendered by the experts on the Islamic Law, as noted in the presence sheet of the instant order. I must also place on record sincere appreciation for the able assistance being rendered by Amicus Curie, Ms. Nandita Rao, Senior Advocate, in striving to adjudicate the controversy in hand.
11. List for further orders on 23.09.2025.

ARUN MONGA, J

SEPTEMBER 19, 2025/SV