

Raju vs The State Nct Of Delhi on 7 February, 2025

Author: Neena Bansal Krishna

Bench: Neena Bansal Krishna

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IN THE HIGH COURT OF DELHI AT NEW DELHI
BAIL APPLN. 13/2025
RAJU

THE STATE NCT OF DELHI

Through: Mr. Shoaib Haider
Prosecutrix prese
S.I. Arti Singh &
Najafgarh, Delhi.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA
OR

% 07.02.2025

1. The present Bail Petition under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 has been filed on behalf of the Petitioner seeking Regular Bail in FIR No. 46/2023 under Sections 363/376/34 of the Indian Penal Code, 1860 (hereinafter referred to as "IPC, 1860") and Sections 4/6/17/21 of POCSO Act registered at Police Station Najafgarh, Delhi.

2. It is submitted in the Petition that as per the FIR, the mother of the Prosecutrix had made a Complaint to the Police Station on 21.01.2023 that her daughter, aged about 15 years, was found missing from the house and on 22.01.2023, the present FIR was registered.

3. Subsequently, the Prosecutrix was recovered from a Park along with This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 08/02/2025 at 04:09:29 Manish @ Mahesh, who were apprehended. Thereafter, the Statement under Section 161 of the Code of Criminal Procedure, 1973 (hereinafter referred to as "Cr.P.C., 1973") was recorded, followed by a Statement under Section 164 of Cr.P.C., 1973, wherein she has stated that she in anger had left the house and met the Petitioner, who was on his Bullet Motorcycle. He along with co-accused Manish @ Mahesh, took the Prosecutrix to an OYO Hotel and they all spent a night in the Hotel. The

co-accused Manish @ Mahesh left the Hotel at about 01:00 A.M., while the Petitioner established physical relationship with the Prosecutrix. In the morning, the Petitioner and the Prosecutrix got up and went to the Park where his friend Manish @ Mahesh also came who asked the Petitioner to charge the mobile phone of the Prosecutrix from his house. The Petitioner left while she along with Manish @ Mahesh kept waiting in the Park. In the interim, the Police came and apprehended the Prosecutrix and co-accused Manish @ Mahesh. The Petitioner was subsequently arrested on 26.01.2023, since when he is in Judicial Custody.

4. It is further submitted that the Chargesheet has already been filed before the learned Trial Court and the Charges have also been framed on 15.01.2024.

5. It is also submitted that the co-accused Manish @ Mahesh, who had booked the two rooms in the said OYO Hotel on his name, has already been admitted to Bail.

6. The accused Rohan @ Badal, who was the Manager of the OYO Hotel, against whom the allegations were that he had booked the two rooms without taking the identity of the Petitioner and co-accused Manish @ Mahesh, has also been admitted to Bail.

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7. It is submitted that the co-accused Manish @ Mahesh has preferred a Revision Petition being CRL.REV. P. 173/2024 before this Court, challenging the framing of Charge against him, in which this Court vide Order dated 22.04.2024 stayed the proceedings before the learned Trial Court.

8. It is further submitted that the Prosecutrix during the hearing of the Bail Application under Section 439 of Cr.P.C., 1973 on 13.09.2024 before the learned Trial Court, had stated that she has no objection if the Bail is granted to the Petitioner. However, the said Bail Application was dismissed by the learned Trial Court vide Order dated 13.09.2024.

9. Also, the other two co-accused persons have already been granted Bail.

10. It is submitted that there is no apprehension of the Petitioner running away or of tampering with the evidence. The adjudication of the trial would take a long time. The Petitioner is the sole bread-earner of the family and has deep roots in the society and hence, there is no chance of his absconding or fleeing from justice.

11. Learned counsel for the Petitioner has placed reliance on the decision in Mahipal vs. Rajesh Kumar & Anr., (2020) 2 SCC 118, wherein the Apex Court observed that the Court is required to examine whether a prima facie case or a reasonable ground exists to believe that the accused had committed the offence and on a balance of consideration involved, whether the continued custody of the accused would subserve the purpose of criminal justice system.

12. Reliance has also been placed on the decision in Satender Kumar Antil vs. CBI, decided vide SLP (Crl) No. 5191/2021 on 11.07.2022 by the This is a digitally signed order.

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13. Reliance has also been placed on the decisions in Ram Govind Upadhyay vs. Sudarshan Singh, (2002) 3 SCC 598, CBI vs. V. Vijay Sai Reddy, (2013) 7 SCC 452 and X vs. Govt of NCT of Delhi, decided vide BAIL APPLN. 2729/2022 by the Co-ordinate Bench of this Court on 21.10.2022.

14. Therefore, the Bail has been sought by the Petitioner.

15. Learned Additional Public Prosecutor on behalf of the State has referred to the Status Report and to the Chargesheet to submit that the Prosecutrix is a young child of 15 years. Initially, it was reported that the UTP of the Prosecutrix was positive, but the same was subsequently found to be negative.

16. It is submitted that the other two co-accused persons have different roles in the commission of crime. The co-accused Manish @ Mahesh had a role of booking two rooms in the OYO Hotel and the other co-accused Rohan @ Badal, who was the Manager of the OYO Hotel, had a role to book the two rooms without taking the identity of the Petitioner and co-accused Manish @ Mahesh. Whereas, the Petitioner is involved in forcibly establishing the physical relationship with the Prosecutrix. Therefore, no parity can be claimed by the Petitioner. Also, the Petitioner has been subsequently named by the Prosecutrix for commission of the alleged offence of rape.

17. The present Bail Petition has been opposed on the ground of gravity of the offence and the tender age of the Prosecutrix.

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18. Submissions heard and record perused.

19. The nature of allegations as emerged from the Chargesheet and from the Statement under Section 164 of Cr.P.C., 1973 of the Prosecutrix, coupled with the fact that the Petitioner is in custody from 26.01.2023 and that the investigations are complete and the Chargesheet has already been filed before the learned Trial Court in which Charges have also been framed, and the Petitioner has no previous criminal antecedent, the Petitioner is admitted to Regular Bail in FIR No. 46/2023 under Sections 363/376/34 of IPC, 1860 and Sections 4/6/17/21 of POCSO Act upon his furnishing a personal bond in the sum of Rs. 25,000/- and one surety of the like amount to the satisfaction of

the learned Trial Court, subject to the following conditions: -

- a) Petitioner shall not leave Delhi/NCR without prior permission of the Court;
- b) Petitioner shall appear before the Court as and when the matter is taken up for hearing;
- c) Petitioner shall provide his mobile number and also the mobile number of his surety to the IO concerned, both of which shall be kept in working condition at all times;
- d) Petitioner shall inform the IO and the Jail Superintendent the address where he shall be available in Delhi;
- e) Petitioner shall not try to contact, threaten or influence any of the witnesses of this case; and
- f) Petitioner shall not indulge in any criminal activity and shall not communicate with or come in contact with the witnesses.

20. The Registry is further directed to communicate this Order to the This is a digitally signed order.

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21. Accordingly, the present Petition is disposed of.

NEENA BANSAL KRISHNA, J FEBRUARY 7, 2025 S.Sharma This is a digitally signed order.

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