$~4 & 5

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

\+ **BAIL APPLN. 3900/2024**

ASHLOK .....Petitioner

Through: Ms. Neha singh and Mr. Rahul Vats, Advocates

versus

THE STATE GOVT. OF NCT OF DELHI .....Respondent

Through: Mr. Laksh Khanna, APP for State with Inspector Manoj from PS Shalimar Bagh
Ms. Bahuli Sharma, Advocate

\+ **BAIL APPLN. 4200/2024**

SONU .....Petitioner

Through: Mr. Rahul Kumar and Mr. Saurabh Singh, Advocates

versus

THE STATE GOVT. OF NCT OF DELHI AND ANR. .....Respondents

Through: Mr. Laksh Khanna, APP for State with Inspector Manoj from PS Shalimar Bagh
Ms. Bahuli Sharma, Advocate

CORAM:
HON'BLE MR. JUSTICE GIRISH KATHPALIA

O R D E R

% 20.03.2025

[**Physical Hearing/Hybrid Hearing (as per request)]**

1. The applicants have sought bail in FIR No. 320/2024 for offence under Section 123/70(2)/3(5) BNS and Section 6/17 POCSO Act. Broadly speaking, the allegation is that the prosecutrix was administered some intoxicating liquid by one Prince and thereafter, she was raped by Prince and accused Sonu. So far as the accused Ashlok is concerned, the allegation is that he was present when the intoxicating liquid was administered and after

the prosecutrix lost consciousness, he went out of the room, leaving the prosecutrix behind with Sonu and Prince. Thereafter, Ashlok is alleged to have latched the door from outside.

2. Under these circumstances, learned prosecutor submits that it would be appropriate if these bail applications are heard subsequent to the testimony of the prosecutrix since accused persons reside in same vicinity and may try to pressurize the prosecutrix.

3. In this regard, learned counsel for applicants objects, stating that the prosecutrix is deliberately delaying the proceedings. Learned counsel for applicants has placed before me copies of orders dated 18.03.2025 and 19.03.2025 of the trial court.

4. Those two orders raise serious issues of sensitivity expected from the courts specially constituted to deal with victims of sexual violence.

4.1 It appears that on 18.03.2025, the prosecutrix did not appear before the trial court despite service of summons and her counsel explained that on account of loose motions and fever she was unable to appear. On this, counsel for the present applicants placed before the trial court a copy of order dated 13.01.2025 of the predecessor bench directing the trial to be expedited. Learned trial court observed that since no medical document had been filed, illness of the prosecutrix was required to be verified. As such, the trial court directed the IO/SHO concerned to verify the medical condition of the prosecutrix and adjourned the matter to the next day i.e., 19.03.2025, directing fresh summons to be served on the prosecutrix.

4.2 On 19.03.2025, an exemption application was filed on behalf of prosecutrix on the grounds of fever and loose motions, for which she had been taking treatment at home under supervision of local doctor. On that

day, the IO submitted that she had got the prosecutrix examined at Haiderpur Janta Clinic on 18.03.2025. Learned counsel for prosecutrix requested the trial court for ten days in order to enable the prosecutrix to step into the box.

4.3 Apart from what is noted above, the orders dated 18.03.2025 and 19.03.2025 record detailed adverse observations against conduct of learned counsel for prosecutrix.

5. Admittedly, 18.03.2025 was the first date when prosecutrix was summoned for her testimony.

5.1 One has to be conscious of the intersectionality of a girl child who has undergone trauma of sexual violence. Such a victim, on being summoned by court to depose and virtually relive the trauma, is bound to get jitters and consequences like loose motions and fever etc, caused by nervousness and agony. This is not something unexpected for which a trial court, that too the one specially constituted to deal with such offences, would venture into exercise of verification on the very first instance. Exemption requests of victims of sexual violence cannot be treated at par with such requests of hardened criminals.

5.2 Of course, the predecessor bench directed expeditious trial in view of incarceration of the applicants. But that cannot be read in such a manner as to cause such a trauma on such a victim, as if it is she who was the aggressor. Sensitivity while dealing with children who are victims of sexual violence is the most important facet of such specially constituted courts.

5.3 What is extremely appalling is that as disclosed by learned counsel of prosecutrix, on the night of 18.03.2025, a male constable went to the house of the prosecutrix, though the directions of the trial court were to the

IO/SHO. In this regard, the concerned ACP shall submit a detailed report by the next date. I also strongly deprecate that despite seriousness of the matter, neither the IO SI Ritu nor the SHO concerned has bothered to appear today.

6. Under these circumstances, relist on 22.04.2025.

GIRISH KATHPALIA, J

MARCH 20, 2025/*rk*

Click here to check corrigendum, if any