



2026:DHC:5645



* IN THE HIGH COURT OF DELHI AT NEW DELHI

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*Reserved on: July 08, 2026
Pronounced on: July, 15, 2026*

+ CRL.M.C. 4328/2026, CRL.M.A. 17440/2026

STATE

.....Petitioner

Through: Mr. S.V. Raju, ASG with Mr.
Aman Usman, APP for the State
versus

.....Respondent

Through: Mr. K.K. Manan, Sr. Adv. with Mr.
M.S. Bammi, Ms. Udit Bali, Mr.
Ms. Nida Akhtar, Mr. Manish
Kumar and Mr. K. S. Choudhary,
Advs.
ACP Vijay Singh, with Insp.
Babita, DIU/ West Distt.

CORAM:

HON'BLE MR. JUSTICE SAURABH BANERJEE

J U D G M E N T

1. By virtue of the present petition under *Section 528* of the Bharatiya Nagarik Suraksha Sanhita¹, 2023, the petitioner seeks setting aside of the order dated 20.05.2026², passed by the learned ASJ (SC-POCSO), South West District, Dwarka Courts, Delhi³, in Bail Matter No.4137 of 2026 in FIR No.104 of 2026 registered at PS.: Janakpuri, Delhi under *Sections 64(2)/ 3(5)* of the Bharatiya Nyaya Sanhita, 2023⁴ and *Sections 6/17/21* of the Protection of Children from Sexual Offences, 2012⁵, whereby the

¹Hereinafter as “BNS”

²Hereinafter as “*Impugned order*”

³Hereinafter as “*learned Trial Court*”

⁴Hereinafter as “BNS”

⁵Hereinafter as “POCSO Act”



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respondent was granted regular bail.

2. As per facts involved, on 28.04.2026, the victim, aged about three years, i.e., daughter of the complainant, was enrolled in the Nursery Class at a , Janak Puri, Delhi. Thence on 30.04.2026, at about 04:00 PM, after returning from school at around 12:00 noon and waking up from sleep, the minor victim started crying and pointed to her private part, complaining of severe pain. The victim disclosed to the complainant that a “*bada sa ladka*” present at school had taken her downstairs and he had touched his finger in her private part causing pain and bleeding. This lead to registration of the FIR involved herein.

3. Thereafter on 02.05.2026, the victim in her statement recorded under *Section 183* of the BNSS, had specifically described the role of the “*Madam*” in commission of the offence as the “*Madam*” who had taken her to the basement, took her clothes off and cleaned the blood stains as also had given her sweets. During investigation on 05.05.2026, whence the video-recorded identification proceedings were ongoing, the victim identified the respondent as the said “*Madam*”, thereby corroborating the aforesaid statement.

4. During further investigation, the blood-stained tissue paper and a piece of bedsheet, recovered from the scene of the offence, were sent for examination. The medical records obtained from Sehgal Neo Hospital, including the ultrasound report, revealed that the victim was undergoing treatment for a urinary tract infection and a bladder infection following the incident.

5. Pursuant thereto, the respondent was arrested on 14.05.2026 only to



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be granted regular bail by the learned Trial Court on 20.05.2026 *vide* the impugned order. Being aggrieved thereby, the petitioner State seeks cancellation/ setting aside of the impugned order dated 20.05.2026.

6. Mr. S.V. Raju, learned ASG submitted that the learned Trial Court erred by not considering the nature and gravity of the offence involved, as also the role attributed to the respondent and the bail was granted in a mechanical manner. The learned Trial Court had relied upon circumstances that are at best equivocal while disregarding overwhelming material pointing to the respondent's complicity. In fact, the impugned order does not reflect any proper balancing of the liberty of the respondent and the gravity of the offence, the safety of the minor victim, and the integrity of the ongoing investigation, as is mandated by law. Reliance in this regard is placed upon ***Gurcharan Singh v. State (Delhi Administration)***⁶, ***Mohan Singh v. Union Territory***⁷ and ***Prasanta Kumar Sarkar v. Ashis Chatterjee***.⁸

7. On the merits involved, Mr. S.V. Raju, learned ASG submitted that the learned Trial Court has impermissibly conducted a mini-trial at the stage of considering bail by scrutinising the credibility of the victim's statement and entertaining unsubstantiated allegation that she had been tutored by her mother, i.e. complainant, despite there being no material on record, which, as held by Hon'ble the Apex Court in ***Satish Jaggi v. State of Chhattisgarh***,⁹ is impermissible, as the credibility of statements at the stage of granting bail cannot be gone into. More so, it was submitted that

⁶AIR 1978 SC 179

⁷AIR 1978 SC 1095

⁸(2010) 14 SCC 496

⁹(2007) 11 SCC 195



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the learned Trial Court erred in treating the absence of external injuries in the MLC as conclusive against the allegation of sexual assault, whilst completely overlooking the subsequent medical records evidencing that the child was treated for a urinary tract infection and bladder infection following the incident as also the factum that 64 CCTV cameras were not functional casts a shadow of doubt on the co-accused persons, including the respondent herein.

8. Additionally, it was also argued by Mr. S.V. Raju, learned ASG that the learned Trial Court also failed to appreciate the significant *prima facie* circumstance that, on the date of the incident, the minor victim was *admittedly* under the custody and care of the respondent in her capacity as a Class Teacher, who had refused to permit her early departure from school despite being informed that she was unwell. More so, the impugned order overlooks the strict, victim-centric approach as mandated under the POCSO Act by placing undue emphasis on the respondent's clean antecedents and her status as a mother.

9. Further, Mr. S.V. Raju, learned ASG submitted that the respondent's long-standing association with the school places her in a position to influence staff members who are material witnesses to the case and although the complainant's apprehension of intimidation and interference with the investigation, however, no consequential safeguards were imposed, nor due weight was accorded to the aforesaid significant consideration, while granting bail.

10. Mr. S.V. Raju, learned ASG lastly submitted that since the reasons for releasing the respondent herein on bail are extraneous and perverse, the impugned order is liable to be set aside, in light of the aforesaid



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factors.

11. *Per contra*, Mr. K.K. Manan, learned senior counsel for the respondent, whilst supporting the impugned order submitted that the learned Trial Court had rightly granted bail to the respondent as she was falsely implicated and has no connection to the incident. He submitted that the respondent has been a teacher at the school for 13 years with no prior antecedents. He further contended that the victim's medical examination does not reveal any fresh injuries or other physical findings expected in light of the said allegations made in the complaint.

12. Mr. K.K. Manan, learned senior counsel submitted that the name of the respondent neither appears in the complaint nor in the FIR and only surfaced later in the statement made under *Section 183 BNSS*, which is an afterthought to widen the case and also a consequence of tutoring the victim. More so, the respondent was arrested belatedly and that too with no incriminating material to justify her custody, especially as she has joined the investigation and the Investigating Officer has confirmed that no further investigation is pending against her.

13. Lastly, Mr. K.K. Manan, learned senior counsel contended that the respondent has never attempted to influence any witness or tamper with the evidence and has consistently co-operated with the investigation. In fact, the co-accused has already been granted bail, and the respondent had sought the same relief on the ground of parity. Based on the above, it was prayed that the present petition is liable to be dismissed.

14. This Court has heard the learned ASG as also learned senior counsel for the respondent and has gone through the documents and materials on record alongwith the judgments cited.



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15. As borne out, the primary issue requiring consideration pertains to whether the impugned order dated 20.05.2026 granting bail to the petitioner is perverse and/ or extraneous, if so, then does it call for exercising inherent powers vested under *Section 528* of the BNSS by this Court.

16. Before advertng to the merits involved, it is necessary to note that while a Court is considering granting any bail in cases involving sexual offences against children and/ or women, essential surrounding factors like (grave) physical, emotional, mental and psychological harm, and their consequences, suffered by such children and/ or women as victim, essentially since they are likely to cause harm, a lasting impact on their life as also may have lasting consequences on their dignity, future and overall development do, not only need to be kept in mind, but also have to be given due weightage. These proceedings wherein the petitioner State is seeking cancellation of regular bail granted by the learned Trial Court is one of such.

17. The aforesaid assume greater significance whence the proceedings herein are under the POCSO Act, with respect to a *three-year-old girl child*. It cannot be ignored that the POCSO Act is a special legislation enacted to address the inadequacies of the existing legal framework in dealing with sexual offences against children. In fact, the legislature being conscious of the facts as aforesaid enacted the POCSO Act to comprehensively set the parameters for punishing offences while advancing the principles of restorative and compensatory justice for child victims. Such matters, thus, warrant utmost care, attention and caution, *particularly*, at the stage of considering release of the accused on bail.



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18. On the other hand, this Court is also conscious that though it is also a well-settled position of law that a Court should ordinarily refrain from interfering with an order granting bail, however, as held by the Hon'ble Supreme Court recently in ***X v. State of Uttar Pradesh and Another***,¹⁰ if it is found that a Court of law, like the learned Trial Court herein, has overlooked material considerations in a case involving a grave offence as it (might have) failed to adequately consider the nature and gravity of the offence, the statutory rigors of the POCSO Act, and the vulnerability of the child victim, interference therein is justified.

19. In fact, the Hon'ble Supreme Court in the case entitled ***P v. State of Madhya Pradesh***¹¹, prior thereto went onto lay the factors whence the order granting bail can be set aside. For ease of reference, the relevant parts thereof are extracted as under:-

“24. As can be discerned from the above decisions, for cancelling bail once granted, the court must consider whether any supervening circumstances have arisen or the conduct of the accused post grant of bail demonstrates that it is no longer conducive to a fair trial to permit him to retain his freedom by enjoying the concession of bail during trial [Dolat Ram v. State of Haryana, (1995) 1 SCC 349:1995 SCC (Cri) 237]. To put it differently, in ordinary circumstances, this Court would be loathe to interfere with an order passed by the court below granting bail but if such an order is found to be illegal or perverse or premised on material that is irrelevant, then such an order is susceptible to scrutiny and interference by the appellate court.”

(Emphasis Supplied)

20. Keeping the aforesaid in mind, and under the facts and

¹⁰2026 SCC OnLine SC 43

¹¹(2022) 15 SCC 211



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circumstances involved, it assumes significance that the learned Trial Court has, *interestingly*, while allowing the application of the respondent seeking regular bail, in the impugned order dated 20.05.2026, has gone onto to observe as under:-

“Though the Ld. Counsel for applicant/ accused had also pointed out to the initial statement of the complainant wherein it has not been mentioned that the teacher of the child victim was also involved in the incident, but as a matter of fact such a young child of approximately 3 years cannot be expected to reveal all the details at the initial stage.

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Moreover, as stated while disposing the previous bail applications, this is not the stage to make any opinion regarding the authenticity of the allegations contained therein, especially when the child victim is merely 3 years of age but after going through the arguments, it is clear that initially the child victim had not disclosed about the role of her class teacher to her mother or to the doctor concerned at the time of her medical examination and consequently, the name of the applicant/ accused was not mentioned in the complaint. Moreover, the present applicant/accused was arrested after around 13 days of the alleged incident and there is no allegations that the present applicant/ accused had ever tried to interfere in the investigation or influence witnesses or tamper with the evidence in any manner, whatsoever before her arrest. Moreover, the present applicant/ accused has joined the investigation as and when called by the investigating agency and had never tried to avoid her presence for investigation. Moreover, the Investigating Officer had admitted that no investigation qua the present applicant/ accused is pending... ..”

21. As apparent therefrom, the learned Trial Court was well aware of the factual position on hand, and that any *three-year-old girl child* like the victim herein cannot be expected to reveal all/ each and every detail at the



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time of making the initial complaint. In any event, as held by the Hon'ble Supreme Court in ***State of Maharashtra v. Ramjan Khan & Ors.***¹² and ***CBI v. Tapan Kumar Singh***¹³, the first complaint and/ or the FIR itself is not the gospel truth or an encyclopedia, which can always be supported later on at different stages, provided there is nothing contrary therein.

22. This Court finds that, despite thereto, the learned Trial Court has gone onto to primarily proceed to grant regular bail to the respondent on the premise merely because the victim failed to disclose the name of the respondent in the complaint and which only surfaced in her statement under *Section 183* of the BNSS. The victim has not only disclosed the name of the respondent but also identified her later at the time of video-recorded identification proceedings.

23. Thus, in the considered opinion of this Court, the learned Trial Court erred in completely ignoring the crucial fact that the victim had not only identified the respondent herein in the presence of the complainant/ her mother but also the very spot where the incident took place. Additionally, the tissue paper as also a piece of a bedsheet has also been recovered.

24. The aforesaid, in view of well-settled position of law, and also in the considered opinion of this Court, has wrongly been taken as a benchmark for granting regular bail to the respondent. More so, since as held by the Hon'ble Supreme Court in ***State of Bihar v. Rajballav Prasad***¹⁴ it is trite law that the veracity/ credibility of a victim at the stage

¹² 2024 SCC OnLine SC 3070

¹³ (2003) 6 SCC 175

¹⁴ (2017) 2 SCC 178



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of granting bail is not to be traversed into. Material/ relevant considerations have been ignored by the learned Trial Court, especially, while it was dealing with one under the POCSO Act.

25. Strangely, and though there is no bar, the learned Trial Court proceeded to grant regular bail to the respondent barely within *six days* of her arrest, when a bare perusal of the impugned order does not reflect anything which could/ may have prompted it to do so.

26. This Court has also to consider that the learned Trial Court has also overlooked/ ignored the fact that the respondent has, *admittedly*, been a teacher in the same School wherein the alleged incident happened for the last *thirteen years*, and thus she was holding a post of significance and/ or authority. Therefore, there may be some likelihood of her tampering with evidence and/ or influencing the witnesses, which can have a bearing in the outcome of the present FIR. Moreover, when the proceedings currently are at a nascent stage which have also been given a go-bye by the learned Trial Court.

27. In view of the afore-going, considering the facts and circumstances in *toto* as also the established position of law, the impugned order dated 20.05.2026, passed by the learned ASJ (SC-POCSO), South West District, Dwarka Courts, Delhi, in Bail Matter No.4137 of 2026 in FIR No.104 of 2026 registered at PS.: Janakpuri, Delhi under *Sections 64(2)/ 3(5)* of the BNSS and *Sections 6/17/21* of the POCSO Act, is set aside.

28. Consequently, the respondent is hereby directed to surrender before the jurisdictional Additional Sessions Judge (POCSO Court) within *three days* of this judgment at or before 12:000 Noon.

29. Accordingly, the present petition alongwith the pending application



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is disposed of in the aforesaid terms.

30. Needless to say, expression of view(s) on the merits, if any, are solely for the purposes of adjudication of the present petition and shall have no bearing on the overall case/ trial involved.

SAURABH BANERJEE, J.

JULY, 15 2026/bh