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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% *Date of decision: 07.07.2025*+ **BAIL APPLN. 1463/2025, CRL.M.A. 16895/2025 & CRL.M.A. 18751/2025**

RAJAB ALI KHAN

.....Petitioner

Through: Mr. Anurag Jain, Mr. O.P. Agarwal, Mr. M.K. Khan And Mr. Aman Mirza, Advocates.

versus

STATE OF NCT OF DELHI

.....Respondent

Through: Mr. Manoj Pant, APP for the State along with SI Anugraha.

CORAM:**HON'BLE DR. JUSTICE SWARANA KANTA SHARMA****JUDGMENT****DR. SWARANA KANTA SHARMA, J. (ORAL)**

1. This is the 12th regular bail application preferred by the applicant, seeking grant of regular bail in case arising out of FIR bearing no. 420/2018, registered at Police Station Welcome, Delhi, on 22.10.2018.

Factual Background

2. Succinctly, the case of the prosecution is that on 22.10.2018, a PCR call was received *vide* DD No. 61B regarding the disappearance of a minor girl from House No. 29, Gali No.1, Babarpur, Delhi, where she regularly attended tuition classes. Upon reaching the spot, the Investigating Officer (IO) met the complainant, Abid, who



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informed that his daughter had left home around 10:00 AM that morning to attend tuition in the neighborhood. However, when she did not return by 1:00 PM, the family searched for her extensively but to no avail. On the basis of Abid's statement, the present FIR was registered initially for offence punishable under Section 363 of IPC for kidnapping.

3. During the investigation, the tutor of the missing girl, Ms. Ruksaar @ Afsa, was interrogated. She stated that the girl had left the tuition premises around 1:00 PM on 22.10.2018, and she was unaware of her whereabouts thereafter. The husband of the tutor, Rajab Ali, the present applicant, was also interrogated and he similarly claimed ignorance about the missing girl.

4. On 28.10.2018, information was received *via* DD No. 41B from P.S. Timarpur, Delhi, indicating that the dead body of an unidentified girl, aged about 10–12 years, had been recovered. The body was subsequently identified by the deceased's brother, Hakim, as that of his missing sister. A message was relayed to PS Welcome, Delhi, regarding the registration of the present FIR. The body had been preserved at the Subzi Mandi Mortuary, and the IO of the present case was instructed to take appropriate further action. The IO visited the place of recovery near Biodiversity Park, Wazirabad, near Jagatpur Village, and prepared the site plan. The deceased was formally identified by her parents and brother, and subsequently, Sections 302 and 201 of IPC were added to the present FIR.

5. During further investigation, the statement of the deceased's



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mother, Zeenat, was recorded. She alleged that the present accused Rajab Ali and his wife Ruksaar @ Afsa had kidnapped and murdered her daughter and disposed of her body in the area of Timarpur, Delhi. One Akbar, known to both Rajab Ali and Ruksaar, also gave a statement to the police. He stated that on the night of 27.10.2018 at about 10:00 PM, the couple came to his house, claiming that Rajab's mother was unwell and hospitalized. As Ruksaar was eight months pregnant, Rajab had left her at Akbar's home. On the following morning, i.e., 28.10.2018, at about 7–8 AM, Rajab had returned and taken the house key from Akbar's wife before leaving.

6. The deceased's body was later shifted from Subzi Mandi Mortuary to GTB Hospital, where her post-mortem examination was conducted. On 31.10.2018, the two suspects, i.e. Rajab Ali and his wife Ruksaar were made to join the investigation. It is the prosecution's case that during sustained interrogation, Ruksaar disclosed that her husband, Rajab Ali, in connivance with her, had committed the murder of the minor girl 'S'. Rajab Ali disclosed that he had developed a liking for the deceased girl and had requested his wife to facilitate his proximity to her. Acting on this request, Ruksaar began calling Simran to their house for tuition. At the time, Ruksaar was eight months pregnant, and according to Rajab Ali, this was one of the reasons he sought to fulfil his desires elsewhere. On 22.10.2018, when 'S' arrived at their home for tuition, Ruksaar took her inside a room. There, Rajab Ali gave 'S' a glass of water laced with sleeping pills. Once she became unconscious, he placed her



inside a bag and transported her on his scooter to the second floor of his paternal house at New Jafrabad, Delhi. He then laid her on a bed, locked the room, and sexually assaulted her. He admitted to having administered sleeping pills again to ensure she remained unconscious. Rajab Ali further disclosed that the victim's father had visited their home during this period to enquire about his missing daughter. Over the next few days, condition of 'S' deteriorated due to repeated sexual assault. Fearing that she might not survive and that the incident would be exposed, Rajab Ali and Ruksaar decided to eliminate her. On 27.10.2018, Rajab Ali dropped his wife at her friend Reshma's house in Dharampura, Gandhi Nagar, and went to his house at Jafrabad, where 'S' was kept. Finding her conscious, he again subjected her to sexual assault. Thereafter, he smothered her with a handkerchief until she succumbed. He then packed her body in a suitcase, placed it on his scooter bearing registration no. DL 5SBB 2196, and disposed of it in the Biodiversity Park near Wazirabad. Additionally, he disclosed that he had also discarded two plastic bags containing the deceased's clothes and other belongings in a garbage heap near Gopalpur, Wazirabad. Both the accused persons were formally arrested on 31.10.2018.

7. During the course of investigation, the accused Rajab Ali led the police to the spot where he had allegedly dumped the deceased's body. The DVR containing CCTV footage from the vicinity of the dumping site was seized. The footage revealed that on 28.10.2018, at around 6:50 AM, Rajab Ali was seen arriving and leaving the area on



a scooty bearing registration no. DL-5SBB-2196, carrying a suitcase. Based on this disclosure, the said scooty was seized and taken into police custody. Further, at the instance of the accused, a packet was recovered from the dumping site which contained one T-shirt and two cut pieces suspected to belong to the deceased. These items were seized and sent to FSL, Rohini for forensic examination. DVRs from the vicinity of the applicant's residence were also collected, which purportedly showed him riding the scooter with a bag; these too were sent to FSL for expert analysis. Additionally, a sewing machine, allegedly used to alter the clothes of the deceased, was recovered and sent for forensic examination. Other items such as handkerchiefs, jackets, shoes, helmets, and tablets were also taken into possession and forwarded to FSL, Rohini. The crime scene was inspected by the forensic team. The post-mortem report of the deceased was subsequently received, which opined as follows:

Genital: in the vaginal introitus tears were present at 5 o'clock position, ecchymosis with purple colour red bruise present between 4 o'clock to 7 o'clock position, anal canal-mucosal tears present at 2 o'clock, 5 o'clock to 8 o'clock and anal orifice shows tear at 11 o'clock.."

8. The post-mortem report confirmed that the deceased had been subjected to repeated sexual assault, leading to the addition of Section 4 of the Protection of Children from Sexual Offences Act, 2012 [hereafter '*POCSO Act*'] to the FIR. During the personal search of accused Rajab Ali, a damaged mobile phone was recovered and sent to FSL, Rohini, for examination. Subsequently, the chargesheet was filed against both accused persons for offences punishable under



Sections 302/363/201/328/109/34 of the IPC, along with Section 4 of the POCSO Act. During the investigation, the FSL reports pertaining to the mobile phone and DVRs were obtained and submitted before the learned Trial Court.

9. The expert report from the Chemical Division of FSL confirmed that the tablets recovered from the possession of the applicant contained 'Clonazepam' and 'Mefenamic acid.' Further, the expert opinion from the Physics Division indicated that the articles recovered from the place where the deceased's body was dumped matched with those recovered from the applicant's residence. A supplementary chargesheet, incorporating the FSL findings, was filed before the learned Trial Court.

Submissions Before the Court

10. The learned counsel appearing for the applicant argues that the applicant has been in judicial custody for about 07 years, even though the applicant has been falsely implicated in the present case and he has nothing to do with the alleged offence. It is also contended that the case of the prosecution is solely based on circumstantial evidence and the chain of commission of offence is incomplete and suspicious. It is argued that the material witnesses have already been examined and since the trial will take some time to conclude, the applicant be granted regular bail.

11. The learned APP for the State, on the other hand, argues that there is no reason for the complainant in this case to falsely implicate the present applicant. It is argued that the circumstantial evidence and



the chain of circumstances is not only complete, but the FSL report also points out and corroborates the case of the prosecution, which sufficiently points out the guilt of the present accused/applicant. The learned APP, in this regard, draws this Court's attention to the forensic, physical and medical evidence in this case, and prays that the present bail application be dismissed.

12. This Court has **heard** arguments addressed on behalf of both the sides and has perused the material available on record.

Analysis & Findings

13. Firstly, it is apposite to note that the present application is the 12th bail application filed by the applicant. Adverting to the merits of the case, heard arguments and perused the file, this Court observes that although learned counsel for the applicant has contended that there is no incriminating material on record sufficient to establish even a *prima facie* case against the accused, and has addressed the Court at length on the evidentiary aspects, this Court deems it appropriate to refer to the material available on record for the purpose of deciding the present bail application.

14. The allegations against the applicant Rajab Ali are that in conspiracy with his wife, he had lured the minor victim to their house under the guise of giving tuitions for Namaz classes, administered sedatives to her, and subjected her to repeated sexual assault. Thereafter, noticing her deteriorating condition, he had allegedly murdered her by smothering. He is further accused of disposing of the body in a remote area and attempting to destroy incriminating



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evidence. The role attributed to him is not only central but also indicative of premeditated and heinous conduct.

15. As per the mother's statement recorded before the learned Trial Court, on 22.10.2018 at about 10:00 AM, she had taken her minor daughter to the house of the accused, Rajab Ali and Rukhsar, who were teaching her how to offer *namaz*. After handing over the child, the door was locked from inside and the mother left for work. When she returned around 1:00 PM and found her daughter missing, she inquired from the accused, who claimed the child had already left. Thus, her statement forms crucial last seen evidence, placing the victim in the exclusive company of the accused just before her disappearance.

16. In the present case, this Court further notes that one of the crucial links connecting the applicant to the offence is the CCTV footage obtained from near the place where the body was found, i.e., Biodiversity Park, Jagatpur Village. As per the DVR seized from the vicinity, the applicant was seen arriving and leaving the area on 28.10.2018 at about 6:50 AM, riding a scooty (bearing registration no. DL-5SBB-2196) and carrying a suitcase. The scooty was later recovered at the instance of the accused and taken into police custody. This CCTV footage was analyzed by the FSL, which confirmed the presence of the applicant and the scooty at the relevant time and location. Additional DVRs collected from areas near the applicant's residence have also shown him driving the same scooty with a bag, further corroborating the prosecution's case regarding his



movements before and after the disposal of the body.

17. Further, although the disclosure statement of the accused per se is inadmissible under law, the recoveries made pursuant to the same are legally admissible. In the present case, the accused led the police to the dumping site, where a packet containing a T-shirt and two cut cloth pieces, suspected to belong to the deceased, was recovered. Forensic examination later confirmed that the T-shirt matched the one found on the body of the deceased. Similarly, several handkerchiefs recovered from the house of the accused were found by the FSL to be similar in size, texture, design, and microscopic characteristics to the ligature material used for strangulation of the victim, which was still tied around her neck when the body was recovered. The post-mortem report confirmed the cause of death as asphyxia due to ligature strangulation, caused by a white handkerchief, thereby creating a direct nexus between the recovered article and the offence.

18. The Chemical Division of the FSL also confirmed the presence of Clonazepam and Mefenamic Acid in the tablets recovered from the possession of the applicant. These substances are known to have sedative and pain-relieving effects, and the prosecution alleges that they were used to render the victim unconscious prior to the repeated sexual assaults. This chemical evidence also corroborates with the applicant's disclosure and the consistent narrative that the victim was sedated by the applicant and sexually assaulted and later murdered.

19. Further, a sewing machine was also recovered from the



applicant's house, which the prosecution claims was used to alter the clothes of the minor girl to fit her. The FSL report corroborates this by matching the stitching pattern and thread reels with those found on the altered T-shirt recovered from the dumping site. Additionally, poly bags recovered from the accused's house were found to be similar in composition and appearance to those used to carry the clothes of the victim and dumped at the scene, as per expert opinion from the Physics Division of FSL.

20. This Court also notes that the post-mortem report provides clear medical evidence of repeated sexual assault. Genital injuries, including vaginal and anal tears and ecchymosis, were noted, consistent with violent and repeated sexual abuse. The timing and nature of the injuries also align with the timeline of the victim's disappearance and the subsequent events.

21. Viewed cumulatively, the circumstances form a tight and coherent evidentiary chain: the last seen evidence of the victim entering the house of the accused i.e. the statement of her mother, the CCTV footage showing his movements with a suitcase to the area where the body was dumped, the recovery of articles at his instance, and the FSL confirmation of the similarity between the items found at the dumping site and those recovered from the accused's residence, all point towards his direct and active role in the commission of the offence.

22. At this stage, when the evidence collected by the investigating agency is still to be tested during trial, this Court is not expected to



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conduct a mini-trial or meticulously analyze the credibility of each piece of evidence. However, the *prima facie* strength of the material, including forensic, electronic, medical, and documentary evidence, weighs heavily against the grant of bail to the applicant.

23. Moreover, the Hon'ble Supreme Court in the case of ***X v. State of Rajasthan: 2024 SCC OnLine SC 3539*** has held that in cases involving serious offences like rape, murder, dacoity, etc., the Courts should be loath in entertaining the bail application – once the trial commences and the prosecution starts examining its witnesses.

24. Thus, for the reasons stated in the preceding discussion, and in view of the gravity of the allegations, the heinous and brutal nature of the offence, and the strong *prima facie* material linking the applicant to the commission of the crime, this Court finds no ground to grant bail to the applicant at this stage. However, the learned Trial Court is directed to expedite recording of evidence in this case as 14 witnesses out of 36 witnesses cited by the prosecution have been examined, who have supported the prosecution case.

25. The present bail application alongwith pending applications, is accordingly dismissed.

26. It is, however, clarified that nothing expressed herein above shall tantamount to an expression of opinion on merits of the case.

27. The judgment be uploaded on the website forthwith.

DR. SWARANA KANTA SHARMA, J

JULY 07, 2025/zp