



2026:DHC:8405



* IN THE HIGH COURT OF DELHI AT NEW DELHI

Reserved on: September 03, 2026
Pronounced on: September 28, 2026

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CNR No. DLHC010307462026

+ CRL.M.C. 4970/2026

MS G

.....Petitioner

Through: Mr. Bharat Sharma and Ms. Jyoti
Sharma, Advs.

Versus

STATE NCT OF DELHI AND ANR.

....Respondents

Through: Mr. Satish Kumar, APP for State
SI Shiv Dayal Kumar, PS.: Dayal
Pur
Mr. Dhananjay Singh, Mr. Mandeep
Baisara, Mr. Kavesh Bidhuri and Mr.
Shobhit Anand, Advs. for R-2.

CORAM:

HON'BLE MR. JUSTICE SAURABH BANERJEE

J U D G M E N T

1. By virtue of the present application under *Section 483(3)* read with *Section 528* of the Bharatiya Nagarik Suraksha Sanhita, 2023¹, the petitioner/ prosecutrix seeks setting aside of the order dated 03.07.2026² passed by the learned ASJ-03, North-East District, Karkardooma Courts, Delhi³ in BAIL APPL. No.625/2026 arising out of FIR No.317/2026 dated 29.06.2026 registered at PS: Dayalpur under *Section 376* of the Indian

¹ Hereinafter referred to as '*BNSS*'

² Hereinafter referred to as '*impugned order*'

³ Hereinafter referred to as '*Trial Court*'



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Penal Code, 1860⁴ read with *Section* 69 of the Bharatiya Nyaya Sanhita, 2023⁵ and consequently cancellation of regular bail granted thereby to the respondent no.2/ accused.

2. *Succinctly put*, the present FIR was registered at the instance of the prosecutrix while she was in Mandoli Jail in connection with FIR No.89/2026 registered at PS: Gokalpuri for allegedly attacking the fiancée of the accused with acid as the said accused who was her neighbour had established physical relations with her on the false pretext of marrying her several times since January, 2022, after proposing her on 10.10.2021. As per prosecutrix, on 14.04.2026, the fiancée of the accused and her family had threatened and assaulted her, and she had been falsely implicated in FIR No.89/2026 for throwing acid at the said fiancée in physical scuffle. The statement of the prosecutrix was recorded on 29.06.2026, following which the accused was apprehended and arrested on 30.06.2025, and was then granted regular bail by the learned Trial Court on 03.07.2026 by way of the impugned order.

3. In this backdrop, this Court has heard learned counsels for the complainant and the accused as well as learned APP, as also carefully perused the materials on record.

4. The *short question* urged before this Court pertains to the prosecutrix not having been accorded an opportunity to be present, and heard, whence the learned Trial Court granted regular bail to the accused herein.

5. *Section 439(1A)*⁶ of the Code of Criminal Procedure, 1973⁷ is the governing provision qua presence of the informant or any person

⁴ Hereinafter referred to as '*IPC*'

⁵ Hereinafter referred to as '*BNS*'



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authorized by her at the time of hearing of such a bail application filed by accused, *albeit*, in cases involving Sections 376(3)/376AB/376DA/376DB IPC, it makes the same ‘...obligatory...’. The corollary thereof pertaining to Sections 65/70(2) BNS can be found in Section 483(2)⁸ BNSS which is *para materia* to Section 439(1A) CrPC. In fact, in pursuance thereof, this Court has also issued Practice Direction No.67/Rules/DHC dated 24.09.2019 applicable to both this Court as well as Sessions Court subordinate to it prescribing the form in which the Investigating Officer is required to communicate to the informant or any person authorized by her *qua* filing of a bail application by the accused under the relevant provisions of law.

6. Further, recognising the intent behind inclusion of the victim in criminal proceedings even beyond Sections 376(3)/376AB/376DA/376DB IPC, the Hon’ble Supreme Court in the landmark decision of **Jagjeet Singh vs. Ashish Mishra**⁹, while dealing with a challenge to an order granting regular bail to an accused under Sections 147/148/149/302/307/326/34/120-B IPC as also certain provisions of the Arms Act, 1959 by the victim(s)/ LR(s) therein, emphasized the necessity of affording such victims an opportunity to be represented at every stage of criminal proceedings, even before the commencement of trial, and held as under:-

⁶ **439 (1A)**. The presence of the informant or any person authorised by him shall be obligatory at the time of hearing of the application for bail to the person under sub-section (3) of section 376 or section 376AB or section 376DA or section 376DB of the Indian Penal Code.

⁷ Hereinafter referred to as ‘CrPC’

⁸ **483(2)** The presence of the informant or any person authorised by him shall be obligatory at the time of hearing of the application for bail to the person under section 65 or sub-section (2) of section 70 of the Bharatiya Nyaya Sanhita, 2023.

⁹ (2022) 9 SCC 321



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“18. On the domestic front, recent amendments to the CrPC have recognised a victim's rights in the Indian criminal justice system. The genesis of such rights lies in the 154th Report of the Law Commission of India, wherein, radical recommendations on the aspect of compensatory justice to a victim under a compensation scheme were made. Thereafter, a Committee on the Reforms of Criminal Justice System in its Report in 2003, suggested ways and means to develop a cohesive system in which all parts are to work in coordination to achieve the common goal of restoring the lost confidence of the people in the criminal justice system. **The Committee recommended the rights of the victim or his/ her legal representative “to be impleaded as a party in every criminal proceeding where the charges are punishable with seven years' imprisonment or more”.**

19. It was further recommended that the victim be armed with a right to be represented by an advocate of his/her choice, and if he/ she is not in a position to afford the same, to provide an advocate at the State's expense. **The victim's right to participate in criminal trial and his/ her right to know the status of investigation, and take necessary steps, or to be heard at every crucial stage of the criminal proceedings, including at the time of grant or cancellation of bail, were also duly recognised by the Committee. Repeated judicial intervention, coupled with the recommendations made from time to time as briefly noticed above, prompted Parliament to bring into force the Code of Criminal Procedure (Amendment) Act, 2008, which not only inserted the definition of a “victim” under Section 2(wa) but also statutorily recognised various rights of such victims at different stages of trial.**

20. It is pertinent to mention that the legislature has thoughtfully given a wide and expansive meaning to the expression “victim” which “means a person who has suffered any loss or injury caused by reason of the act or omission for which the accused person has been charged and



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the expression “victim” includes his or her guardian or legal heir”.

22. **It cannot be gainsaid that the rights of a victim under the amended CrPC are substantive, enforceable, and are another facet of human rights.** The victim's right, therefore, cannot be termed or construed restrictively like a brutum fulmen [Ed. : The literal translation from the Latin approximates to “meaningless thunderbolt or lightning”, and is used to convey the idea of an “empty threat” or something which is ineffective.]. **We reiterate that these rights are totally independent, incomparable, and are not accessory or auxiliary to those of the State under the CrPC. The presence of “State” in the proceedings, therefore, does not tantamount to according a hearing to a “victim” of the crime.**

23. **A “victim” within the meaning of CrPC cannot be asked to await the commencement of trial for asserting his/her right to participate in the proceedings. He/She has a legally vested right to be heard at every step post the occurrence of an offence. Such a “victim” has unbridled participatory rights from the stage of investigation till the culmination of the proceedings in an appeal or revision. [... ..]**

24. The abovestated enunciations are not to be conflated with certain statutory provisions, such as those present in the Special Acts like the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, where there is a legal obligation to hear the victim at the time of granting bail. Instead, what must be taken note of is that:

24.1. First, the Indian jurisprudence is constantly evolving, whereby, the right of victims to be heard, especially in cases involving heinous crimes, is increasingly being acknowledged.

24.2. Second, where the victims themselves have come forward to participate in a criminal proceeding, they must



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be accorded with an opportunity of a fair and effective hearing. If the right to file an appeal against acquittal, is not accompanied with the right to be heard at the time of deciding a bail application, the same may result in grave miscarriage of justice. Victims certainly cannot be expected to be sitting on the fence and watching the proceedings from afar, especially when they may have legitimate grievances. It is the solemn duty of a court to deliver justice before the memory of an injustice eclipses.

[Emphasis Supplied]

7. Thereafter, while dealing with a challenge to grant of anticipatory bail to an accused under Sections 376/354/354-B/506/506(2) IPC filed by the prosecutrix therein more recently in ***Ms. X vs. The State of Maharashtra***, the Hon'ble Supreme Court, reiterating the law laid down in ***Jagjeet Singh (supra)***, once again observed as below:

"23. [... ..] No doubt, the State was present and was represented in the said proceedings, but the right of the prosecutrix could not have been whittled down for this reason alone. In a crime of this nature where ordinarily, there is no other witness except for the prosecutrix herself, it was all the more incumbent for the High Court to have lent its ear to the appellant.

24. Our view is in line with the observations made by a three-Judges Bench of this Court in ***Jagjeet Singh And Others v. Ashish Mishra Alias Monu And Another*** [... ..]

25. It must be remembered that in the present case, the machinery of criminal justice has been set into motion by none other than the appellant/prosecutrix herself. She was the one who had dialled '100' number from the reception area of the Hotel where the crime had allegedly taken place. [... ..]"

[Emphasis Supplied]



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8. In fact, it is thereafter that even a Co-ordinate Bench of this Court in ***Ms. P vs. State (NCT of Delhi) & Anr.***¹⁰, following the decision in ***Jagjeet Singh (supra)***, has gone onto cancel the regular bail granted to the accused therein under *Section 376 IPC* on the sole basis that the prosecutrix therein was not served a copy of the bail application filed by the said accused and was not afforded an opportunity of being present at the time of hearing thereof.

9. Therefore, any victim like the prosecutrix herein who set the state machinery in motion by filing a complaint under *Section 376 IPC/ Section 69 BNS* against the accused herein, is to be given an opportunity of participating at all stage(s) of the criminal proceedings, including, whence the application for grant of regular bail was filed by the accused before the learned Trial Court.

10. Therefore, grant of regular bail to the accused within a span of *three days*, under such circumstances, calls for being set aside.

11. Be that as it may, without adverting to the merits involved, and even though the accused might have a good case on merits, the impugned order cannot sustain and is set aside.

12. Accordingly, Bail Appl. No.625/2026 arising out of FIR No.317/2026 dated 29.06.2026 registered at PS: Dayalpur under *Section 376 IPC* read with *Section 69 BNS* is remanded to the learned Trial Court to be decided afresh after providing an opportunity to the prosecutrix to be heard, preferably within a period of *two weeks* from today.

¹⁰ 2024 SCC OnLine Del 2527



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13. Needless to mention, the said application of the accused shall be decided on its own merits as per the discretion to be exercised by the learned Trial Court, without being influenced with the observations, if any, made by this Court herein.

14. However, considering that the existing facts and circumstances involved, particularly, since the impugned order is only being set aside for the limited reason that the learned Trial Court failed to issue notice to the prosecutrix, till fresh adjudication thereof by the learned Trial Court, the accused shall not be re-arrested.

15. The present petition, along with the pending application, is disposed of in the aforesaid terms.

SAURABH BANERJEE, J.

SEPTEMBER 28, 2026/Ab/rs