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

% *Date of Decision: 16.09.2025*

+ **BAIL APPLN. 1710/2025**

MD. SHAKIR

.....Petitioner

Through: Mr. Pradeep Kumar Yadav,
Adv Mr. Taiyyab Khan
Salmani, Adv, Ms. Anjale
Patel, Adv, Mr. Deepak
Yadav, Adv, Ms. Prakriti
Pandey, Adv, Ms. Swapnil
Singh Adv, Mr. Vishal Thakre,
Advocates

versus

THE STATE GOVT. OF NCT OF DELHIRespondent

Through: Mr. Manoj Pant, APP for the
State

CORAM:

HON'BLE DR. JUSTICE SWARANA KANTA SHARMA

JUDGMENT

DR. SWARANA KANTA SHARMA, J. (Oral)

1. The present case brings before this Court a disturbing account of human cruelty, where a young woman became the victim of a brutal physical and sexual assault. The attack left her writhing in pain, grievously injured, her face mutilated, her body bearing clear marks of violence – and her spirit crushed under the weight of an inhuman crime outside the gate of a hospital in Delhi. Though she was rushed to the hospital, and in her fragile state managed to briefly narrate the ordeal inflicted upon her, she ultimately succumbed to her



injuries a few days later.

2. It is in this background that the accused, Mohd. Shakir, now has approached this Court seeking grant of bail in connection with FIR No. 0117/2023, registered at Police Station I.P. Estate, Delhi, for the commission of offences punishable under Sections 376/376D/323 of the Indian Penal Code, 1860 [hereafter 'IPC']. The Court is, therefore, called upon to consider the plea for bail of a man against whom stands the grave charge of having subjected the victim not only to sexual assault but also to such physical brutality which ultimately led to her unfortunate death.

3. Briefly stated, the facts as emerge from the record are that on 01.05.2023, an information was received *vide* DD No. 90A at about 11:15 PM at P.S. IP Estate from LNJP Hospital, Delhi, regarding admission of a patient after an alleged quarrel. Upon reaching the emergency ward of the hospital, the police officials (HC Amit and HC Ranvijay) had found the victim crying in pain. One Raghunath was present along with her, who informed that the victim had been discovered lying near the emergency ward, Gate No. 6, G.B. Pant Hospital, at about 9:00 PM. With the help of a rag picker named Raja, he had managed to bring the victim inside for treatment. The victim also gathered the strength to narrate her ordeal to the police officials and she disclosed that she had been brutally raped by one Shakir, who had not only assaulted her physically and sexually but had also robbed her of her purse and mobile phone. She had even provided partial details of his mobile number, and also given her



mobile number to the police officials.

4. During the course of inquiry, Call Detail Records of the mobile phone number of the victim were obtained and it was discovered that the victim had received a phone call from mobile number 75*****92 which was registered in the name of Mohd. Shakir, i.e. the present accused. The preliminary medical examination of the victim revealed multiple injuries on her body, i.e. conjunctival hemorrhage in the left eye, bite mark on the right cheek, bruises on the chin and cheek. While the victim was shifted to the ICU and efforts were made to record her statement, her condition did not permit the same. Ultimately, despite all medical intervention, she succumbed to her injuries on 07.05.2023. Initially registered under Sections 376/376D/323 of IPC, the case was thereafter altered to include Sections 302 and 397 of IPC.

5. Thus, upon completion of investigation, chargesheet was filed against the present accused for offences under Sections 376/302/397 of the IPC.

6. The learned counsel appearing for the applicant/accused argues that the applicant has been falsely implicated in the present case, and that there is no cogent material on record to establish his involvement in the alleged offence. It is urged that the investigation carried out by the police suffers from serious infirmities and contradictions. Attention is invited to the fact that at the time of her medical examination, the victim had informed the attending doctor that she had been subjected to sexual assault by two unknown persons.



However, subsequently, as per the statement of HC Amit, the victim allegedly disclosed to him that it was the present applicant alone who had committed the offence of rape and assault. It is argued that this inconsistency creates serious doubt about the veracity of the version attributed to the victim. It is further contended that if the victim was indeed familiar with the applicant/accused for a considerable period of time, it is inexplicable as to why she did not immediately disclose his name to the doctors concerned at the earliest available opportunity. The learned counsel has also argued that till date, only one prosecution witness, i.e. HC Amit, has been examined before the learned Trial Court, whereas as many as 40 other prosecution witnesses cited in the chargesheet remain to be examined. The trial is, therefore, likely to take a considerable length of time. It is also submitted that the applicant has already undergone incarceration for more than two years, having been in judicial custody since 03.05.2023. It is contended that keeping him in further custody, despite delay in the progress of trial, would serve no fruitful purpose, and that – bail is the rule and jail is the exception. Therefore, it is prayed that the applicant deserves to be enlarged on regular bail.

7. Conversely, the learned APP for the State fervently opposes the bail application and argues that the offence alleged against the applicant is of grave and heinous nature. He submits that the medical examination of the victim has revealed serious injuries on her person, including injuries on her private parts and a distinct bite mark on her right cheek, which indicates the nature of the assault. It is further



submitted that the Call Detail Records (CDR) and Customer Application Form (CAF) pertaining to the mobile numbers of the victim and the present accused prove that they were known to each other for a considerable period of time, and in fact, the mobile number of the applicant was saved in the phone of the victim. It is further contended that the trial is at a nascent and crucial stage, with the majority of witnesses yet to be examined, which includes material public witnesses. In view of the gravity of the offence, the nature of the evidence collected, and the possibility of the applicant interfering with the trial, it is prayed that the bail application be dismissed.

8. This Court has **heard** arguments addressed by the learned counsel for the applicant and the learned APP for the State, and has perused material on record.

9. The allegations against the applicant are marked by an unusual degree of brutality and point towards a crime committed with extreme violence. The evidence, especially the medical evidence, when read with the facts of the case, reveals the sad story of a young woman who was subjected to grave assault, leaving her grievously injured, robbed of dignity, her personal belongings, and ultimately of her life.

10. This Court notes that the initial MLC of the victim, prepared on 01.05.2023, records signs of both physical and sexual assault. The victim was found with vaginal bleeding, a distinct bite mark on her right cheek, throat pain, redness in her eyes, and blackening over her chin. The subsequent MLC dated 02.05.2023 corroborates these



findings, also noting conjunctival hemorrhage in the left eye, bruises on the chin and left cheek, and bite marks on her face.

11. The “Medico-Legal Examination Report of Sexual Violence” prepared at LNJP Hospital has also been perused by this Court. The report leaves little scope for doubt about the nature of the attack. It records that the victim had been dragged, with visible bite marks on her right cheek. The findings include swelling of the upper and lower lips, a bruise on her chin, and severe genital injuries. Notably, the examination revealed an anal tear at the 2 o’clock position, extending up to the left posterolateral aspect of the labia majora, as well as a longitudinal tear measuring 4 cm along the left labia majora. These injuries, in their very description, convey the extent of the assault to which the victim was subjected.

12. The post-mortem examination, conducted by the Medical Board, revealed that the cause of death of the victim was “Septicemia as a complication of intestinal perforation and perineal tear consequent to blunt trauma in an alleged physical and sexual assault,” with all injuries being ante-mortem in nature.

13. Insofar as the *prima facie* evidence against the present applicant is concerned, it is the specific case of the prosecution that the victim, in her initial statement to the police, had disclosed the name of the applicant Mohd. Shakir as the perpetrator of the crime. Significantly, she had also mentioned the first and last digits of his mobile number, i.e. 75 and 92. On analysis of the CDRs and CAFs, it was confirmed that the said number indeed belonged to the applicant



herein. The records further revealed that the victim and the applicant had known each other for a considerable period of time and were in contact even on the day of the incident, i.e. 01.05.2023. The CDRs also place the applicant at or near the spot of the commission of offence during the relevant period, which are corroborated by the CCTV footage seized during investigation, which proves the applicant's presence inside the hospital on the day of the incident.

14. Pertinently, the CCTV footage shows the applicant entering the hospital premises at 7:58 PM through Main Gate No. 2, being present on the ground floor at 8:03 PM, and thereafter moving towards the third-floor ramp at 8:04 PM. He is subsequently seen exiting the building at 8:25 PM. It assumes significance that the place of occurrence was also located on the third floor, precisely where the applicant was captured on camera during the relevant time frame.

15. Further, the opinion of the Department of Oral Pathology and Forensic Odontology reveals that the experts concluded that the elliptical injury marks found on the right cheek of the victim were human bite marks, and that the applicant Mohd. Shakir could not be excluded as the biter.

16. Furthermore, during the course of investigation, the mobile phone of the deceased/victim was also recovered, from one Akram Ali on 14.06.2023, whose wife Sitara Begum had produced the phone before the police. In her statement, Sitara Begum disclosed that a person had handed over that phone to her, along with a slip of paper on which he had written his mobile number "753*****92" and his



name “Mohd. Shakir” in Hindi, along with the word “Bareilly.” The slip, allegedly bearing the handwriting of the accused, was seized and taken into police possession. This recovery, *prima facie* linking the mobile phone of the deceased to the present applicant, forms yet another incriminating circumstance against him.

17. This Court notes from the record that the victim was in a critical medical condition at the time when her initial statement was sought to be recorded. Owing to her fragile state, even her statement before the Magistrate could not be recorded as she was found unfit to depose. It is, however, significant that the victim had specifically requested that her treatment be prioritized first, and that thereafter she would narrate the complete facts and even point out the place of occurrence. In these circumstances, the contention of the applicant that there are contradictions, or that the victim had not immediately disclosed his name to the doctor, is without merit, particularly when the other material on record *prima facie* points towards the involvement of the applicant herein.

18. Another argument advanced on behalf of the applicant is that since the victim and the accused were known to each other, and it was the victim who had allegedly called the accused to the hospital, the present case cannot be one of forcible assault. Even if, for the sake of argument, such an argument was to be accepted, though the victim is no longer alive to respond to such allegations, the law is clear that past familiarity, or even intimacy between two individuals, does not in any manner dispense with the requirement of free and



conscious consent for each specific sexual act. A previous relationship or acquaintance cannot be stretched to mean a blanket or continuing consent, nor can it justify any subsequent act of violence. *Prima facie*, the medical examination of the victim has revealed multiple injury marks on her body, which are reflective of resistance and struggle, and brutality with which she was assaulted, which makes it clear that she did not consent to the acts committed upon her. Therefore, the argument of the applicant in this regard, premised on prior acquaintance between the victim and the applicant, is without any merit and is accordingly rejected.

19. Another contention raised on behalf of the applicant rests on the settled principle that “bail is the rule and jail is the exception.” While the principle is well recognised, this Court finds that in the facts of the present case, such a plea cannot be accepted. It would be relevant to take note of the Hon’ble Supreme Court’s observation in ***Neeru Yadav v. State of Uttar Pradesh: (2014) 16 SCC 508***, wherein the need for a balance between individual liberty and societal interests was highlighted and it was observed that liberty is a cherished constitutional value, but that very liberty may be curtailed by the collective wisdom of society, through due process of law, when an individual poses a danger to public order. The Court had observed as follows:

“16. ...Deprivation of liberty of a person has enormous impact on his mind as well body. A democratic body polity which is wedded to the rule of law, anxiously guards liberty. However, society by its collective wisdom through the process of law can withdraw that liberty that it has sanctioned to an individual



when the individual becomes a danger to the collective and to the societal order. Therefore, when an individual behaves in a disharmonious manner ushering in disorderly things which the society disapproves, the legal consequences are bound to follow.”

20. Therefore, in this Court’s considered opinion, the principle that “bail is the rule” cannot be read as an unfettered license for grant of bail in every case. The said principle was evolved to guard an accused against arbitrary or punitive pre-trial detention, but it was never intended to operate in cases where the allegations disclose offences of the most heinous nature. In cases involving rape and murder, where the brutality of the act is *prima-facie* evident from medical and forensic evidence, the argument that bail is a matter of rule must lose its force.

21. When the material on record *prima-facie* indicates the applicant’s role in an offence of exceptional depravity, the plea for bail cannot rest on such principles, divorced from the gravity of the offence alleged. In such cases, the claim that “bail is the rule” must necessarily yield to the higher considerations of justice, social order, deterrence and to provide security to women in society.

22. Having observed so, this Court is also of the opinion that the trial of the case is at a very crucial stage as the prosecution witnesses are now being examined before the learned Trial Court, and material witnesses are yet to be examined. As expressed by the Hon’ble Supreme Court in *X v. State of Rajasthan: 2024 SCC OnLine SC 3539*, 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. The present case relates to brutal rape, leading death of the victim. The case at hand involves allegations of brutal sexual assault leading to the victim's death.

23. In these circumstances, this Court does not find any ground to extend the concession of regular bail to the applicant.

24. ***Before parting with this case***, this Court deems it pertinent to record that despite the nationwide awakening and legal reforms that followed the Nirbhaya's case, incidents of brutal sexual violence continue to surface, which shake the conscience of society. Each such incident serves as a painful reminder that laws alone cannot control such crimes, unless accompanied by their strict enforcement, as well as putting in place effective measures aimed at prevention and deterrence of such offences.

25. The present incident stands out not only for its brutality but also for the place where it occurred. The offence was committed within the premises of a hospital, an institution which is otherwise meant to preserve and protect life. The victim in this case, herself an employee of the hospital, was assaulted and raped in the very building where she used to work and care for others. It is equally alarming that such an act could be carried out in a fully functional hospital, inside an AC plant room, despite the presence of staff, patients, and routine activity all around. This brazen disregard for law highlights not only the brutality of the act but also the unsafe conditions faced by women even in places where they should be most



secure.

26. Regrettably, this case highlights that the female workers in the hospitals are also vulnerable to sexual violence in the hospital building itself, as in the present case – the victim who was working as ‘aaya’ fell prey to sexual and physical violence leading to her death due to brutality with which she was sexually assaulted in the AC plant room of the hospital. In this regard, this Court is of the view that particular care must be taken with regard to those areas of hospital buildings which are relatively deserted or isolated, and which may be misused for the commission of such crimes, for the purpose of providing security by the Government of NCT of Delhi.

27. A copy of this order be forwarded to the Chief Secretary, GNCTD as well as Secretary, Department of Law, GNCTD for taking note of the observations made in this judgment.

28. The bail application is disposed of in above terms.

29. It is clarified that observations made in this judgment are only *prima facie* in nature, for the purpose of deciding the bail application, and the same shall not be treated as opinion of this Court on the merits of the case during trial.

30. The judgment be uploaded on the website forthwith.

DR. SWARANA KANTA SHARMA, J
SEPTEMBER 16, 2025/ns