



2025:DHC:1966



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

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*Date of Decision: 25.03.2025*

+ **BAIL APPLN. 4017/2024**

.....Petitioner

Through: Ms. Aarushi Singh, Ms. Riya Parihar  
and Mr. Ashutosh Kumar Tiwari,  
Advocate

versus

STATE N.C.T OF DELHI

.....Respondent

Through: Ms. Priyanka Dalal, APP for the State  
with SI Rakesh Kumar, PS Neb Sarai  
Mr. Krishna Datta and Mr. Piyush  
Thanvi, Advocate for complainant *de-  
facto*

**CORAM: JUSTICE GIRISH KATHPALIA**

**J U D G M E N T (ORAL)**

1. Petitioner, who is a lady doctor running a hospital, has sought anticipatory bail in case FIR No. 0392/2024 of PS Neb Sarai for offence under Section 123/64/87/351(2)/3(5) BNS and Section 6 of the POCSO Act. The bail application was for the first time taken up on 05.11.2024 before the predecessor bench and by way of detailed order, the petitioner was protected from arrest subject to her joining investigation. Thereafter, the matter came up on three dates, when for some or the other reason connected with the continuing investigation, the matter was adjourned before different



predecessor benches, extending the interim relief to the petitioner. Today, I have heard learned counsel for petitioner, the learned prosecutor and the learned counsel for the prosecutrix.

2. Broadly speaking, it is nobody's case that the present petitioner ever acted in furtherance of common intention with the remaining accused persons, who allegedly raped the prosecutrix. The allegation against the present petitioner is that when the prosecutrix realized her having become pregnant, she confronted one of the alleged rapists, whose sister took her to the hospital being run by the present petitioner; and that at the hospital, the present petitioner got conducted ultrasound on the prosecutrix in order to confirm her pregnancy. Apart from this, there is also an allegation that the present petitioner administered certain pills which led to abortion of the prosecutrix.

3. The present petitioner in the course of investigation was repeatedly questioned and she completely denied that the prosecutrix ever visited her hospital or was examined there through ultrasound or in any other manner.

4. The investigating officer also carried out searches in the hospital run by the petitioner but could not find any document to show that the prosecutrix was examined through ultrasound or even otherwise in the said hospital. The investigating officer seized the hard disk of ultrasound machine of the hospital and sent the same to FSL, but the result is awaited.



5. In the above background, learned counsel for petitioner submitted that this is a fit case to grant anticipatory bail because at the most, the allegation *prima facie* made out against the petitioner is for offence under Section 21 of POCSO Act, which is a bailable offence. Learned counsel for petitioner after taking me through above matrix contended that as on date there is no evidence at all to connect the petitioner with the alleged offence.

6. Learned prosecutor contended that presence of the prosecutrix in the hospital of the petitioner is established from her photographs, retrieved from mobile phone of one of the accused and Call Details Record. Further, it is contended by learned prosecutor that there are call details regarding communication between the present petitioner and sister of one of the accused. Learned prosecutor also submitted that chargesheet against accused Sunil and Rohit @ Narinder Singhal has already been filed and as regards the present petitioner, supplementary chargesheet would be filed depending upon the FSL report of the ultrasound machine hard disk and other investigation.

7. Learned counsel for complainant *de facto* reiterated the arguments advanced by the learned prosecutor and contended that there are clear allegations of the prosecutrix that it is the present petitioner who administered the abortion pills and conducted the abortion.

8. Admittedly, the first complaint alleging rape was lodged by the prosecutrix about one and half years after the alleged incident. Also



admittedly, despite having conducted searches, police could not find even a shred of documentary record to show admission or ultrasound of the prosecutrix in the hospital run by the petitioner.

9. The photographs referred to by learned prosecutor depict only the prosecutrix lying on bed in a room being attended to by a lady in uniform of nurse. Face of the said lady is not visible in the photograph as she is wearing a protective gear. At this stage, learned counsel for complainant *de facto* points out that as per one of the status reports filed by prosecution, the petitioner doctor did not reveal identity of that staff nurse. But I find no substance in this submission, because the petitioner has throughout maintained that the prosecutrix was never brought to her hospital and never examined there. Only from the room depicted in the photograph, it cannot be ascertained that the said room is in the hospital being run by the petitioner doctor.

10. As regards the allegation that the abortion pills were administered by the present petitioner, there is no such allegation in the FIR, though in subsequently recorded statement under Section 183 BNSS, the prosecutrix alleged to that effect. In the FIR, the prosecutrix categorically alleged that the abortion pills were administered by accused Sunil. That apparently is the reason for the prosecution having not chargesheeted the present petitioner for the offence of abortion in the main chargesheet.



11. As regards the CDRs to show location of the prosecutrix in the hospital of the present petitioner, it is admitted position that prosecutrix is residing in the neighborhood of the hospital. As regards the telephone calls between the present petitioner and sister of accused Rohit, there are only three phone calls. But beyond that, there is nothing to suggest complicity of the present petitioner in any offence.

12. As regards the allegation that the petitioner doctor carried out ultrasound on the prosecutrix, there is no documentary record at all. The hard disk of the machine has been sent to FSL for analysis. But it would be significant to note that the FIR in this case was registered on 18.09.2024 but the hard disk was seized on 24.02.2025 and sent to FSL on 18.03.2025. In other words, the hard disk seizure and dispatch to FSL was done only during pendency of this bail application. No explanation at all has been advanced for this delay in this vital step of investigation.

13. To conclude, complaint was lodged by the prosecutrix about one and half year after the alleged incident, and presently there is no cogent evidence to show that the present petitioner conducted any ultrasound or abortion on the prosecutrix. That being so, I find no reason to curtail the liberty of the petitioner, who is a lady doctor.

14. In view of above discussion, the bail application is allowed and it is directed that in the event of her arrest, the petitioner shall be released on bail subject to her furnishing a personal bond in the sum of Rs. 20,000/- with one



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surety of the like amount to the satisfaction of the IO/SHO. It is also directed that the petitioner shall join investigation, as and when directed by the IO in writing.

15. It is made clear that none of the above observations shall impact the trial of the case.

**GIRISH KATHPALIA  
(JUDGE)**

**MARCH 25, 2025/as**