



2025:DHC:4396



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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision: 26.05.2025

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BAIL APPLN. 1395/2025 & CRL.M.A. 10870/2025**PHULMAI TAMANG @ NEHA**

.....Petitioner

Through: Mr. Deepak Kumar Singh, Advocate

versus

STATE OF NCT OF DELHI

.....Respondent

Through: Ms. Manjeet Arya, APP for State with
Inspector Sunil Dhaka and Inspector
Kapil Khokar and SI Virender, PS
Kamla Market**CORAM: JUSTICE GIRISH KATHPALIA****J U D G M E N T (ORAL)**

1. The accused/applicant seeks bail in case FIR No. 186/17 of PS Kamla Market for offence under Section 366A/368/342/370/370A/373/376/109/120B/34 IPC, Section 3/5/7 ITP Act, Section 17 of POCSO Act and Section 23 JJ Act. Broadly speaking, the allegation against the accused/applicant is that the complainant *de facto*, a resident of Nepal, who succeeded in escaping the illegal custody of a *kotha* on G.B. Road got an FIR lodged according to which, she was induced by one Raj Kumar, a resident of Nepal to accompany him to Delhi for working as a domestic help but in Delhi he sold her to one Sita, who in turn sold her to the accused/applicant running a *kotha*. The accused/applicant forcibly confined her to the *kotha* and in order to compel her into prostitution, beat her up and



even injected drugs after which she was forced to indulge into sexual relations with 20 men despite her objections. Further investigation culminated into tracing out one more victim of such forced prostitution.

2. At the outset, learned prosecutor points out that the earlier bail application of the accused/applicant was dismissed till Hon'ble Supreme Court and therefore, this is not a fit case to grant bail. In response, learned counsel for the accused/applicant contends that while dismissing the SLP against dismissal of the bail application, the Hon'ble Supreme Court also granted liberty to the accused/applicant to renew her bail application before the trial court if the trial was not concluded within a reasonable period.

3. Learned counsel for accused/applicant contends that in accordance with the liberty granted by the apex court, the accused/applicant filed fresh bail application before the learned trial court but the same was dismissed, so the present application has been filed. Learned counsel for accused/applicant emphasizes that delay in trial is a vital ground for grant of bail and in the present case, only one of the prosecutrix has been examined, and the accused/applicant is in jail for past seven years. No other ground of bail has been pressed.

4. Learned APP submits the status report which is accepted across the board to be scanned and made a part of the record. Copy supplied.

5. As mentioned above, there are two victims of forced prostitution in this case. Testimony of one of those victims was already recorded when the



matter reached the Hon'ble Supreme Court. Vide order dated 21.11.2022, the Hon'ble Supreme Court, having examined the testimony of that victim held: *"after going through the statement of the prosecutrix (PW1), we find no reason to grant indulgence of bail to the petitioner pending trial at this stage"*. In other words, on merits, even the Hon'ble Supreme Court opined that this is not a fit case to grant bail. However, liberty was granted to renew the bail application before trial court if the trial got delayed unreasonably.

6. On this aspect, learned counsel for accused/applicant himself submits that now only the second victim of forced prostitution has to step into the box to conclude her testimony, for which she would appear before the trial court in August 2025 because she is pregnant.

7. No doubt, delay in trial is a ground for grant of bail. But that is not the only ground. The Court has to keep in mind overall circumstances in the light of judicially sanctified parameters for grant of bail. Besides, while seeking bail on the ground of delay in trial, it is incumbent upon the applicant to place on record the ordersheets of the trial court in order to rule out the possibility that the matter is being adjourned at request of the applicant himself. In the present case, no such ordersheet has been placed on record.

8. Rather, as mentioned above, the second victim also is scheduled to appear for her testimony in August 2025 itself because she was pregnant.



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9. There is yet another aspect. The trial is at its fag end and that in itself is an indicator against grant of bail.

10. At this stage, learned counsel for the accused/applicant further contends that the status report filed today introduces new facts by alleging that the second victim of forced prostitution testified against the accused/applicant. According to learned counsel for accused/applicant, the second victim has not uttered anything against him. On this aspect, learned APP refers to the statement of the second victim, recorded under Section 164 CrPC. In any case, the second victim is yet to step into the box to conclude her testimony.

11. At this stage, learned counsel for accused/applicant submits that the status report does not mention correct facts.

12. Considering the above circumstances, I do not find it a fit case to grant bail to the accused/applicant. The application is dismissed.

**GIRISH KATHPALIA
(JUDGE)**

MAY 26, 2025/as