



2026 :DHC :5174



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

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Judgement Reserved on 24.06.2026

Date of pronounced on: 29.06.2026

Judgement uploaded on: As per digital signature

+ CRL.M.C. 3956/2026 CRL.M.A. 16006/2026 &  
CRL.M.A. 17636/2026

STATE .....Petitioner

versus

LALIT KUMAR .....Respondent

**Advocates who appeared in this case**

For the Petitioner : Mr. S.V. Raju, Additional Solicitor  
General and Mr. Aman Usman, APP

For the Respondent : Mr. Sanjeev Sagar, Sr. Advocate with  
Mr. Sanjeet Kumar, Advocate

+ CRL.M.C. 3966/2026

XXXX .....Petitioner

versus

STATE OF NCT OF DELHI & ANR. ....Respondents

**Advocates who appeared in this case**

For the Petitioner: Mr. Rishikesh Kumar and Ms. Sheenu  
Priya, Advocates

For the Respondents: Mr. S.V. Raju, Additional Solicitor  
General and Mr. Aman Usman, APP  
for respondent no.1.



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Mr. Sanjeev Sagar, Sr. Advocate with  
Mr. Sanjeet Kumar, Advocate for  
respondent no.2.

**CORAM:**  
**HON'BLE MR. JUSTICE VINOD KUMAR**

**JUDGMENT**

**VINOD KUMAR, J.**

1. The CRL. M.C. – 3956/2026 preferred by the State and CRL. M.C – 3966/2026 preferred by the complainant have been filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter, “BNSS”), assailing the order dated 07.05.2026 passed by the learned Additional Sessions Judge (SC-POCSO), South West District, Dwarka Courts, Delhi in Bail Matter No.3991/2026 titled as “Lalit Kumar vs. State”, whereby regular bail was granted to the respondent-Lalit Kumar in FIR No. 104/2026 registered at Police Station Janak Puri for offences punishable under Sections 64(1) of the Bharatiya Nyaya Sanhita, 2023 (hereinafter, “BNS”) and 6 of the Protection of Children from Sexual Offences Act, 2012 (hereinafter, “POCSO”).

2. CRL.M.C. – 3966/2026 has been preferred on behalf of the victim’s mother, who had lodged the aforesaid FIR. Accused Lalit Kumar is respondent no.2 in it and therefore, whenever the word ‘respondent’ is referred to, it will also mean respondent no.2 of this petition. Since both the Petitions challenge the same impugned order granting bail to the respondent and arise out of the same FIR, they are being decided by this common judgment.



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### **FACTS**

3. Briefly stated the facts as alleged by petitioners are that on 28.04.2026, the minor victim, aged about 3 years and daughter of the Complainant, was enrolled in the Nursery Class at a Junior School at Narang Colony, Janak Puri, Delhi, which is affiliated with a Senior Secondary School, Janakpuri. The said Junior School had a total of approximately 34 students and 10 staff members, comprising six female teachers, two female maids, one guard, namely Gopal, and the Respondent (Caretaker/Upper Division Clerk). The Respondent was one of only two male persons posted in the Junior Wing.

4. On 30.04.2026, the minor victim attended school for only the second time. She was dropped by her mother at the school at about 08:00 AM. The Complainant mother requested the teacher at the gate to send the child home early as she was unwell. Thereafter, the mother returned home.

5. On 30.04.2026, at about 4:00 PM, after returning from school at approximately 12:00 noon and waking up from sleep, the minor victim started crying and pointed to her private part, complaining of severe pain. The minor victim disclosed to her mother that a “*bada sa ladka*” present at school had taken her downstairs and that the man had touched his finger in her private part causing pain and bleeding.

6. On the intervening night of 30.04.2026/01.05.2026, the complainant i.e. mother of the victim informed the police by calling Emergency Number 112, whereupon FIR No. 104 of



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2026 was registered at P.S. Janakpuri on 01.05.2026 at 08:15 AM under Section 64(1), BNS and Section 6, POCSO Act.

7. On 01.05.2026 at about 06:30 PM, in the presence of her parents, the minor victim identified the Respondent at Police Station Janakpuri as the person who had taken her to the basement and touched her private part. Subsequently, on 05.05.2026, the minor victim also identified her class teacher Kriti Sahni as the “Madam” who had taken her to the basement and cleaned the blood stains, corroborating the child’s earlier disclosure to her mother.

8. When the police personnel of Police Station Janakpuri contacted the Respondent on 01.05.2026 at 11:00 AM to facilitate inspection of the school premises and CCTV cameras, he did not to cooperate and deliberately delayed the process for approximately 3–4 hours, before being brought to the police station for inquiry at 05:00 PM. It is submitted that this initial non-cooperation is a significant circumstance indicative of the Respondent’s consciousness of guilt. Subsequently, at about 08:40 PM on 01.05.2026, the Respondent was arrested in the subject FIR and all arrest related procedures were complied with by the Investigating Agency.

9. During investigation, the minor victim was medically examined at DDU Hospital and a Medical Legal Report was prepared. Statements of the complainant and the minor victim were recorded. The minor victim’s statement under Section 183 BNSS was recorded before the Duty JMFC on 02.05.2026.



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10. The scene of crime, that is, basement area of the Junior Wing school, was inspected on 02.05.2026 with the minor victim, who independently identified the room of the alleged incident. The Crime Team conducted photography and lifted forensic exhibits, including blood-stained tissue paper and a cut piece of bed sheet, which have been sent to the Forensic Science Laboratory for examination. The reports of the FSL are still awaited.

11. Investigating Officer found that approximately 64 CCTV cameras installed in the school premises were non-functional at the relevant time. The DVR of the CCTV system has been seized for forensic examination. Further, one portable camera installed at the school reception was found operational, and its footage was examined. The CCTV footage of the portable camera revealed that the Respondent was seen moving towards the school gallery/passage, the area through which children enter the school, at about 08:13–08:15 AM on 30.04.2026, and was seen returning from the same passage at about 08:37 AM.

12. It is submitted that the Respondent's bail application was strongly opposed by the prosecution before learned Additional Sessions Judge. The Petitioner-State had filed its reply to the Bail application before the Ld. Trial Court, wherein entire narration of the investigation thus far was placed on record of the Court. However, the Ld. Additional Sessions Judge vide the Impugned Order dated 07.05.2026, was pleased to grant regular bail to the Respondent primarily on the ground that as per CCTV footage



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the Respondent had left the Junior Wing of the school at about 08:37 AM and had not returned thereafter, that the respondent had joined investigation, and that custodial interrogation was no longer required.

### **IMPUGNED ORDER**

13. As already stated, the respondent filed an application seeking regular bail before the learned Additional Sessions Judge.

14. While considering the application, learned Trial Court noted that the footage retrieved from the CCTV camera depicted the respondent entering the passage leading towards the interior portion of the school premises at about 08:13 AM and thereafter returning at approximately 08:37 AM. Learned Additional Sessions Judge observed that the footage did not indicate the presence of the applicant inside the Junior Wing beyond the said time and further noted the defence contention that in another footage the respondent can be seen entering the Senior Wing school building shortly thereafter.

15. Learned Additional Sessions Judge also adverted to the MLC of the victim prepared at DDU Hospital. Upon examining the medical record, the Court noted that no injury or redness or any other mark was found on the body of the prosecutrix including the private part of the victim.

16. Having regard to the stage of investigation, the absence of any further requirement of custodial interrogation, the medical material placed on record, the electronic evidence relied upon by



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the defence, the age and antecedents of the applicant, learned Trial Court concluded that no sufficient grounds existed for continued detention of the applicant during the pendency of the proceedings.

17. In nutshell, the points, which heavily weighed with learned Additional Sessions Judge while granting the bail, are delineated as under :

1. The Respondent had left the Junior Wing at around 8:37 AM and had not returned thereafter.
2. The CCTV footage corroborated the Respondent's presence at the Senior School soon thereafter.
3. The MLC revealed no injury, redness or marks on the body of the child victim, including her private parts.
4. The Respondent had joined the investigation whenever called by the Investigating Agency.
5. There was nothing on record to suggest that the Respondent had attempted to flee or interfere with the investigation.
6. The relevant DVRs and other articles had already been seized by the Investigation Agency.
7. The teachers of the Junior Wing had already been examined during investigation.
8. No useful purpose would be served by keeping the Respondent behind bars any longer.

18. Accordingly, learned Trial Court allowed the application



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for regular bail and directed the release of the respondent on bail, subject to furnishing the requisite bail bonds and compliance with the conditions imposed in the impugned order.

### **SUBMISSIONS ON BEHALF OF PETITIONERS**

19. Additional Solicitor General submitted that the Trial Court erred in granting regular bail to the respondent without duly appreciating the gravity and seriousness of the allegations. It was contended that the respondent is accused of committing aggravated penetrative sexual assault upon a three-year-old child, punishable under Section 6 of the POCSO Act, and that the impugned order fails to consider the settled parameters governing the grant of bail in cases involving offences of such grave nature. Reliance was placed upon **Prasanta Kumar Sarkar v. Ashis Chatterjee, (2010) 14 SCC 496.**

20. It was further submitted that the Trial Court failed to properly appreciate the material collected during investigation. According to the petitioners, the CCTV footage places the respondent inside the Junior Wing of the school during the relevant period, while the statement of the minor victim recorded under Section 183 of the BNSS consistently identifies the respondent and narrates the manner of commission of the offence. It was argued that Trial Court erroneously relied upon the absence of external injuries in the MLC and selectively appreciated the CCTV footage, while ignoring other incriminating circumstances supporting the prosecution case.



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21. Learned Additional Solicitor General further contended that the impugned order was passed at a premature stage when the investigation was still in progress and crucial forensic evidence, including the FSL report and examination of the CCTV DVR, was awaited. It was submitted that the Trial Court also failed to appreciate that the respondent had delayed the initial investigation and that the suspicious non-functionality of several CCTV cameras constituted a relevant circumstance which required due consideration before grant of bail.

22. It was next submitted that the respondent had been associated with the school for over three decades and, therefore, enjoyed considerable influence over the school administration and staff, many of whom are material witnesses in the present case. According to the petitioners, there existed a genuine apprehension that, if permitted to remain on bail, the respondent may influence witnesses, interfere with the investigation, or otherwise prejudice the fair conduct of the trial. It was also argued that the learned Trial Court virtually conducted a mini trial by undertaking a detailed appreciation of the evidence, which is impermissible at the stage of consideration of bail.

23. Reliance was placed on judgment of the Delhi High Court in **Ms. N v. State &Anr., NC:2023: DHC:6253** submitting that while considering an application for bail in offences under the POCSO Act, the Court is required to keep in mind the object and purpose of the special legislation, which is intended to safeguard the interests of children at every stage of the criminal process. It



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was contended that the Court must consider the existence of a *prima facie* case, the nature and gravity of the allegations, the severity of the punishment, the likelihood of the accused influencing witnesses or obstructing the course of justice, and other settled parameters governing the grant of bail. It was further submitted that, in cases under the POCSO Act, the Court is additionally required to consider factors such as the age of the victim, the age difference between the victim and the accused, the ferocity of the alleged offence, the relationship between the parties, and their proximity of residence, all of which, according to the petitioners, were overlooked by the Trial Court while granting bail.

24. On the aforesaid grounds, learned Additional Solicitor General and learned Counsel for the complainant-petitioner submitted that the impugned order suffers from misapplication of the settled principles governing grant of bail, and therefore deserves to be set aside.

#### **SUBMISSIONS ON BEHALF OF THE RESPONDENT**

25. Learned Senior Advocate for the respondent, on the other hand, has denied all allegations and claims false implication. It is argued that respondent is about 56 years of age and has served the institution for more than thirty years and has an unblemished service record without any previous criminal antecedents. His duties were purely administrative in nature and consisted primarily of overseeing entry and exit arrangements, maintaining



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records and attending to office-related work. Further, it was submitted that respondent had no teaching responsibilities and no role in supervising children inside classrooms or in the basement area.

26. It was further contended that the CCTV footage demonstrates that respondent exited the Junior Wing premises at about 08:37 AM and thereafter entered the Senior Wing of the school at approximately 08:43 AM, where he remained present until afternoon. On the strength of this material, it was argued that respondent was not present at the alleged place of occurrence during the relevant period and that the footage supports his plea of innocence.

27. Further, it is argued that the medical examination report of the victim and the findings recorded therein do not indicate any fresh injuries or other signs which would ordinarily be expected in a case involving the allegations made in the complaint. It is also contended that the medical evidence does not conclusively corroborate the prosecution version.

28. Learned counsel for the respondent, placed reliance upon the decision of the Delhi High Court in **Dharmander Singh @ Saheb v. State (Govt. of NCT of Delhi) 2020 SCC OnLine Del 1267**, in a POCSO case, wherein it was held that even if the bail plea is raised before framing of charge, the court is not supposed to form an opinion on the merits of the evidence and that it can admit an accused to bail.



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## **ANALYSIS AND DECISION**

29. I have heard the rival submissions and have considered the facts taken note of by learned Additional Sessions Judge while granting the bail. The respondent was arrested on 1<sup>st</sup> of May, 2016 on the very date of registration of FIR. Learned Additional Sessions Judge granted bail to respondent on 7<sup>th</sup> of May, 2026 just after a week when the investigation was in full swing and at a crucial stage. It appears that due consideration was not given to the fact that the victim made a complaint on the date of incident itself on 30.04.2026 about the pain in her private part due to touching with finger by a person. The victim did not name the respondent, as reflected from FIR. Later on victim identified the respondent as offender. There is nothing on record at this stage to indicate any motive for falsely implicating the respondent by minor child or her parents. However, evidence about the presence of the respondent from 8:13 am to 8:37 am on 30.04.2026 has been confirmed from CCTV footage.

30. Though it is true that while deciding the bail application, the court is not required to go into the facts very minutely but at the same time the court has to broadly examine the allegations made by the prosecution and points of defence raised by the accused. Thereafter, the court is entitled to weigh both the sides in light of all facts and circumstances attending the alleged offence including the safety of vulnerable victims. Learned Additional Sessions Judge did not take into account a very important fact that in junior school where the present incident



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took place, there were ten staff members out of which only two officials were male i.e. one guard namely Gopal and the respondent. Therefore, the child victim could not have made any mistake in identifying the culprit. Learned Additional Sessions Judge missed a very important fact that the victim is barely three years old and such a small child cannot be equated with an adult victim, who can narrate the facts in proper sequence with accuracy of time. A child of such tender age may appear to be incoherent and sometimes even illogical but that does not mean that what a child is saying is incorrect. This is a case where about three years old victim narrated the incident to her mother without naming the respondent. Thereafter, she not only identified the respondent but also identified the place where incident took place. This evidence cannot be rejected at this stage simply because of the reasons that respondent was seen leaving the place at 8:37 am. Learned counsel for respondent has drawn attention of this court to the medical legal report and submits that the date and time of incident has been mentioned as 3:00 pm on 30.04.2026. I am of the opinion that this is not a correct reading of this portion of medical report. This appears to be the time of informing the incident by the child to her mother. Further, it is argued on behalf of the respondent that as per prosecution, the incident took place in presence of a lady teacher, who is co-accused in the present case. It is argued that such indecent act cannot be done in presence of a lady. I have already stated that a three years old child may not speak about the



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incident in sequence. As the matter is still under investigation, the Investigating Officer will investigate these facts but it was too early in a day to release the respondent on bail on these points ignoring the version of the victim.

31. During arguments, the Investigating Officer had informed this court that nothing was found in the tissue paper. However that does not strike off the version of victim and her mother. Therefore, at this stage, it would not be correct to doubt the victim. Refusal to give samples to doctor also cannot be taken to give any benefit of bail to respondent at this stage when investigation is still continuing and the facts are yet to be crystallized.

32. The impugned order has missed the crux of the issue and the issue is as to why a minor child of three years of age would make such a complaint and would not only identify the respondent as the offender but also point out the place of occurrence.

33. I have perused the judgment **Dharmander Singh @ Saheb v. State (supra)** cited on behalf of respondent. Perusal of the same would show that prosecutrix in the said case was not only mature but also she was having good friendship with the accused. Further, the bail was granted when investigation had been completed and evidence of prosecutrix was being recorded. Therefore, the judgment cited by learned counsel is not applicable to the case in hand because of the simple reasons that victim here is only three years old and investigation is still on and



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points, which have been canvassed by the respondent before this court and before learned Sessions Judge are still under investigation.

34. It goes without saying that higher court should not normally interfere in a matter where bail had been granted but if the Trial Court has missed some extremely important factors in an offence of grave nature, as has happened in this case, the High Court would be justified in cancelling the bail. I would like to refer to **X Vs State of Uttar Pradesh and Another 2026 SCC OnLine SC 43**, wherein the Supreme Court of India was dealing with an order granting bail under POCSO Act. It was argued before the Supreme Court that there was no medical corroboration of rape and the medico legal examination revealed no injuries on the body of minor victim. The Supreme Court set aside the order of grant of bail holding that High Court had failed to take in account the nature and gravity of offence and the statutory rigour of the provisions of the POCSO Act and vulnerability of the victim.

35. Therefore, in view of above discussions and in exercise of power under Section 528 of the BNSS Act 2023, the impugned order is set aside to secure ends of justice.

36. Consequently the respondent is directed to surrender before the jurisdictional Additional Sessions Judge (POCSO Court) on 01.07.2026 at 2:00 pm.

37. Petitions are allowed accordingly.



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38. Misc. applications are also disposed of.

**VINOD KUMAR, J**  
**(VACATION JUDGE)**

**JUNE 29, 2026/dd**