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

% ***Date of Decision: 14th October, 2026***

\# **CNR No. DLHC010391332026**

\+ BAIL APPLN. 3456/2026 & CRL.M.A. 25738/2026

CHETAN .....Petitioner

Through: Mr. Anis Mohammad, Mr. Praveen Tokas, Mr. Sahid Khan, Mr. Ritvik John, Advocates along with petitioner in person.

versus

STATE GOVT OF NCT DELHI .....Respondent

Through: Mr. Sunil Kumar Gautam, APP for State
Mob: 9871349009
Ms. Anushkaa Arora, Standing Counsel, Delhi High Court Legal Services Committee for Victim
M: 987199212, 011-41414498, 9355333663
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**CORAM:**
**HON'BLE MS. JUSTICE MINI PUSHKARNA**
**MINI PUSHKARNA, J. *(Oral):***

1. The present is a third bail application filed on behalf of the petitioner, i.e., Sh. Chetan, S/o Sh. Anil Kumar, under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 ("BNSS"), seeking regular bail in connection with the First Information Report ("FIR") being *FIR No. 44/2026* dated 17th January, 2026, registered at Police Station ("PS") Sarita Vihar, South East District, Delhi, under Section 137(2) of the Bharatiya Nyaya

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Sanhita, 2023 ("BNS") and Section 6 of the Protection of Children from Sexual Offences Act, 2012 ("POCSO Act").

2. Learned Additional Public Prosecutor ("APP") appearing for the State has handed over a Status Report dated 06th October, 2026, to this Court, which is taken on record.

3. The case of the prosecution, as per the aforesaid Status Report is as follows:

3.1. The present FIR came to be registered at the instance of the father of the victim, i.e., his daughter aged about 16 years, on the ground that the victim had been missing since 05th January, 2026.

3.2. On 13th May, 2026, the victim was traced by the police and found residing with the petitioner in a rented accomodation in *Nathupura, Burari*. The petitioner was arrested on the same date and remanded to judicial custody.

3.3. During investigation by the police, the petitioner disclosed that he had married the victim and that they had been living together. However, no proof of the said marriage was provided by the petitioner or the victim.

3.4. The medical examination of the victim revealed that she was pregnant, indicating that sexual intercourse had occurred while she was a minor.

4. The proceedings in respect of the present FIR are pending before the Additional Sessions Judge (FTSC), POCSO Act, South East District, Delhi, in *SC 389/2026*, and are currently at the stage of prosecution evidence.

5. This Court notes that the custodial interrogation of the petitioner is complete.

6. This Court is also informed that charges in the present matter have

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already been framed by the Trial Court.

7. Learned counsel appearing for the victim is present before this Court, along with the victim and her parents.

8. She submits, on instructions, that though the victim is a minor, she has already married the petitioner.

9. Further, the parents of the victim submit that they now accept the relationship between the victim and the petitioner.

10. *Per contra*, learned APP appearing for the State submits that the present case pertains to serious offences punishable under the POCSO Act, and concerns a minor girl aged about 16 years. He further submits that, if released on bail, the petitioner may influence or intimidate the victim, her family members and other prosecution witnesses, thereby adversely affecting the fairness of the proceedings before the Trial Court.

11. Having heard learned counsels appearing for the parties, this Court notes that the proceedings in the present case involve an offence under the POCSO Act, however, the submissions made before this Court have brought to the fore that the relationship between the victim and the petitioner was consensual. In addition, the victim had herself accompanied the petitioner on the date she is alleged to have gone missing in the present FIR.

12. This Court also takes note of the categorical submission made by learned counsel appearing for the victim that the complainant, i.e., the father of the victim, does not wish to pursue the present matter any further.

13. Furthermore, this Court notes that the complainant, i.e., the father of the victim as well as the mother of the victim, are present before this Court, and have candidly submitted that they now accept the relationship between the petitioner and their daughter.

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14. In this regard, reliance may be placed upon the decision of the Supreme Court in the case of ***State of Uttar Pradesh Versus Anurudh and Another, 2026 SCC OnLine SC 40***, whereby, it has been held that the POCSO Act has been frequently misused to supress adolescent romantic relationships by the families, who are in objection to such relationships. The Supreme Court has emphasised on inclusion of a 'Romeo-Juliet' clause to exempt such romantic relationships from the strict application of the POCSO Act. The relevant excerpts of the said judgment are as follows:

> *"xxx xxx xxx*
>
> ***19.*** *As the conclusions drawn above indicate the impugned judgment and order of the High Court has to be set aside on grounds of transgression of the jurisdiction present and thereby lacking the appropriate directions. It is to be set aside also because it goes against the statutory prescription under the JJ Act. Be that as it may, this Court has not lost sight of the well-intentioned purport of this order.* ***The POCSO Act is one of the most solemn articulations of justice aimed at protecting the children of today and the leaders of tomorrow. Yet, when an instrument of such noble and one may even say basic good intent is misused, misapplied and used as a tool for exacting revenge, the notion of justice itself teeters on the edge of inversion. Courts have in many cases sounded alarm regarding this situation. Misuse of the POCSO Act highlights a grim societal chasm - on the one end children are silenced by fear and their families are constrained by poverty or stigma, meaning thereby that justice remains distant and uncertain, and on the other hand, those equipped with privilege, literacy, social and monetary capital are able to manipulate the law to their advantage.*** *The impugned judgment is one amongst many where Courts have spoken out.* ***Not only are instances rife where the age of the victim is misrepresented to make the incident fall under the stringent provisions of this law but also there are numerous instances where this law is used by families in opposition to relationships between young people. In Satish alias Chand v. State of U.P. [ Crl. Misc. Bail Appl.***

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***No. 18596 of 2024] , the High Court, noted that on few occasions concern had been expressed by the Court with respect to application of the Act on consenting adolescence when it comes to consensual relationships between teenagers, four factors have been highlighted which, is crucial for the Courts to consider:***

> ***"A. Assess the Context: Each case should be evaluated on its individual facts and circumstances. The nature of the relationship and the intentions of both parties should be carefully examined.***
>
> ***B. Consider Victim's Statement: The statement of the alleged victim should be given due consideration. If the relationship is consensual and based on mutual affection, this should be factored into decisions regarding bail and prosecution.***
>
> ***C. Avoid Perversity of Justice: Ignoring the consensual nature of a relationship can lead to unjust outcomes, such as wrongful imprisonment. The judicial system should aim to balance the protection of minors with the recognition of their autonomy in certain contexts. Here the age comes out to be an important factor.***
>
> ***D. Judicial Discretion: Courts should use their discretion wisely, ensuring that the application of POCSO does not inadvertently harm the very individuals it is meant to protect."***
>
> *[See also: Mrigraj Gautam @ Rippu v. State of U.P.] [2023: AHC : 204171]*

***The Delhi High Court in Sahil v. the State NCT of Delhi [2024: DHC: 6100] the Court noted in para 11 of the order that POCSO cases filed at the behest of a girl's family objecting to romantic involvement with a young boy have become common place and consequent thereto these young boys languish in jails. Therein, reference is also made to an order of the Gujarat High Court [Jayantibhai Babulbhai Alaniv. State of Gujarat2018 SCC OnLine Guj. 1223] , where the Court noted that considering the closeness in age of the prosecutrix and the accused as also the fact that she had left home of her own accord observed that the application deserved consideration.***

*This chasm between access and abuse is also mirrored in*

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*the misuse of Section 498-AIPC and the Dowry Prohibition Act, 1961. Amongst numerous examples, we may only refer to Rajesh Chaddha v. State of U.P [2025 SCC OnLine SC 1094] , where this Court lamented the use of these Sections without specific instances or relevant details, among other cases. It is also to be stated though that no amount of judicial vigilance against misuse can alone bridge this ever-widening gap. The first line of defence lies with the Bar i.e., the body that translates grievance into action and is the gatekeeper of justice at the point of entry. When it comes to matters such as these, the responsibility of the advocate is profound - to examine the allegations with detachment and necessary discretion and to counsel restraint when grievance masks vengeance and to refuse participation in litigation when it can be seen that an ulterior motive is sought to be agitated under the guise of seeking protection of the law. It is only when the Bar takes a principled, proactive role, that the legislation intended as a shield can be stopped from being twisted into a weapon. A lawyer who tempers aggression with calm, reason and rationality, protects not only the opposing party from unwarranted harm but also the client from the long-term consequences of frivolous or malicious litigation, including adverse orders, and judicial censure. By taking a principled stand, the Bar acts as a crucial filter, preventing the legal system from being overwhelmed by abuse masquerading as enforcement. Such self-regulation strengthens public faith in the profession, ensures that judicial time is reserved for genuine disputes, and reinforces the foundational idea that law is a means of justice, not a weapon of convenience. In this sense, the ethical vigilance of lawyers is not ancillary to justice, it is indispensable to it. When they do not do so, the chasm alluded to above widens. Society also must match institutional reform with moral awakening. The intent and object of these legislations must be at the forefront when a person wishes to lodge a complaint thereunder. The misuse of these laws is a mirror to the opportunistic and self-centered view that pervades the application of law. It is only through discipline, integrity and courage that these problems can be remedied and rooted out. Any legislative amendment or judicial direction will remain lack-luster without this deeper change.*

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*We have referred to certain instances of the High Courts noting the misuse/misapplication of the POCSO Act, somewhat in line with the indices appended to the impugned judgment as also its progenitors.*

***Considering the fact that repeated judicial notice has been taken of the misuse of these laws, let a copy of this judgment be circulated to the Secretary, Law, Government of India, to consider initiation of steps as may be possible to curb this menace inter alia, the introduction of a Romeo - Juliet clause exempting genuine adolescent relationships from the stronghold of this law; enacting a mechanism enabling the prosecution of those persons who, by the use of these laws seeks to settle scores etc.***

*xxx xxx xxx"*

*(Emphasis Supplied)*

15. Pertinently, a Coordinate Bench of this Court in the case of ***Riyaz Versus State (Govt. of NCT of Delhi) and Another, 2024 SCC OnLine Del 5918***, while dealing with a bail application for offences under Sections 363/376 of the Indian Penal Code, 1860 ("IPC"), and Section 6 of the POCSO Act, has held as follows:

*"xxx xxx xxx*

***8. This Court is of the opinion that the present case is of love affair between the Prosecutrix and the Petitioner. Consensual sex between girls who are just below the age of 18 years and boys who are just above 20 years has been in legal grey area because the consent given by a minor girl cannot be said to be a valid consent in the eyes of law.***

*9. At this juncture, this Court is not going into the question as to whether the Petitioner has committed offences under Sections 363/376 IPC and Section 6 of the POCSO Act or not. This Court is only concerned with as to whether a youngster who is in jail for about three years now should be granted bail or not in view of the fact that all the public witnesses, including the Prosecutrix, have been examined.*

***10. This Court has been constantly seeing that POCSO cases are being filed at the behest of the girl's family who object to***

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> ***her friendship and romantic involvement with a young boy and the law is being misapplied in such cases which results in young boys, who have genuinely fallen in love with young adolescent girls, languishing in jails.***
>
> *xxx xxx xxx"*
>
> *(Emphasis Supplied)*

16. Considering the aforementioned decisions and the submissions made before this Court, including the fact that the parents of the victim have accepted the relationship between the petitioner and their daughter, this Court is of the view that the present petition for grant of regular bail can be allowed. No fruitful purpose will be served by the continued incarceration of the petitioner.

17. Further, the Nominal Roll dated 19th September, 2026, furnished by the concerned Jail Authorities, shows that the petitioner has remained in judicial custody since 13rd May, 2026, i.e., for a period of 04 months and 06 days, as on 19th September, 2026. The overall conduct of the petitioner has been satisfactory during this period.

18. Accordingly, for the aforesaid reasons, it is directed that the petitioner be released on regular bail in connection with *FIR No. 44/2026* dated 17th January, 2026, registered at PS Sarita Vihar, South East District, Delhi, under Section 137(2) of the BNS and Section 6 of the POCSO Act, subject to furnishing a personal bond in the sum of Rs. 20,000/-, with one surety of the like amount subject to the satisfaction of the Trial Court/Duty Magistrate, and further subject to the following conditions:

a. The petitioner shall cooperate in any further investigation as and when directed by the concerned IO;
b. The petitioner shall furnish his residential address to the IO and shall

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not change the address without informing the concerned IO/Station House Officer ("SHO") of the local PS.

c. The petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case or tamper with the evidence of the case, in any manner whatsoever;

d. The petitioner shall appear before the Trial Court as and when directed;

e. The petitioner shall, upon his release, give his mobile number to the concerned IO/SHO and shall keep his mobile phone switched on at all times. The mobile number shall not be changed, nor shall the mobile phone be switched off, without prior intimation to the IO/SHO;

f. The petitioner shall report to the concerned local PS on every Monday at 09:00 AM and shall be released within two hours after completion of formalities.

19. It is clarified that any observations made in the present order are solely for the purpose of deciding the present bail application, and shall neither influence the outcome of the trial proceedings, nor be construed as an expression of opinion on the merits of the case.

20. The bail application is allowed and accordingly disposed of, in the aforesaid terms.

21. Copy of the order be communicated to the concerned Jail Superintendent for information and necessary compliance.

**MINI PUSHKARNA, J**

**OCTOBER 14, 2026**/ak

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