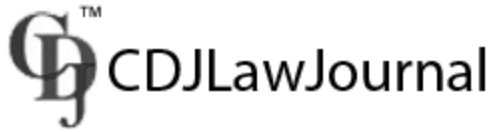


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Citation : CDJ 2026 DHC 341

Court : High Court of Delhi

Case No : Bail Appln. No. 3007 of 2025

Judges : THE HONOURABLE MR. JUSTICE PRATEEK JALAN

Parties : Raj Mahato Versus The State Of Nct Of Delhi

Appearing Advocates : For the Applicant: Shweta S. Kumar, Advocate (through VC). For the Respondent: Yudhvir Singh Chauhan, APP, Sandeep Kumar Singh, Advocate.

Date of Judgment : 15-05-2026

Head Note :

Bharatiya Nagarik Suraksha Sanhita, 2023 - Section 482 -

Comparative Citation:  
2026 DHC 4318,

Judgment :

1. By way of the present application under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 [“BNSS”] (corresponding to Section 438 of the Code of Criminal Procedure, 1973), the applicant seeks anticipatory bail in connection with FIR No. 98/2025, dated 06.02.2025, registered under Section 108 of the Bharatiya Nyaya Sanhita, 2023 [“BNS”], at Police Station Bhalswa Dairy, District Outer North, Delhi.

#### A. PROSECUTION CASE AND ORDERS PASSED IN THE APPLICATION

2. The subject FIR was registered on 06.02.2025 in respect of the unfortunate death by suicide of the complainant’s daughter. The incident took place on 26.01.2025. As stated in the FIR, the complainant initially did not suspect anyone; however, upon checking the mobile phone of the deceased, it was revealed that she had been in contact with the applicant. The applicant was a classmate of the deceased - they were both students of Class XII in Sarvodaya Co-Ed Vidyalaya No.1, Shakti Nagar, Delhi, at the time of the incident. He and his sister were friends of the deceased and used to visit her home. It was alleged that the applicant had sent objectionable photographs and videos to the deceased on 25.01.2025, and that the two remained in telephonic contact on 26.01.2025 from 05:47 A.M. until the deceased committed suicide in the afternoon. The complainant also produced the mobile phone of the

deceased, which contained a video of the applicant putting a mangalsutra on the deceased, along with other objectionable photographs and videos. It was, therefore, alleged that the applicant had harassed the deceased, as a result of which she committed suicide.

3. Notice was issued in this application on 08.08.2025, pursuant to which a status report was filed by the prosecution on 22.08.2025. It was stated therein that the mobile phone of the deceased had been sent to the Forensic Science Laboratory ["FSL"], but the results were awaited. In view of the deceased's date of birth, recorded as 16.07.2007, allegations under Section 4 of the Protection of Children from Sexual Offences Act, 2012 ["POCSO Act"], and Sections 67A/67B of the Information Technology Act, 2000 ["IT Act"], were also added. It was further stated that the applicant had not joined the investigation and had been declared a proclaimed offender on 10.07.2025.

4. By order dated 01.09.2025, this Court granted interim protection against coercive steps, subject to the applicant joining the investigation. The submissions before the Court and reasoning of the Court are extracted hereinbelow:

"3. Ms. Shweta S. Kumar, learned counsel for the petitioner submits that the petitioner is a young boy aged about 18 years and a student of class 12th, having clean antecedents. It is argued that he has been falsely implicated and there is no material to indicate any direct abetment of suicide or that the petitioner forced or harassed the deceased in any manner.

4. It is submitted that the petitioner and the deceased were in a consensual relationship. It is also submitted that there is an unexplained delay in registration of the FIR as the unfortunate incident occurred on 26.01.2025 and the FIR was registered on 06.02.2025. It is stated that the petitioner has given complaints to the DCP seeking call detail records to verify facts, and he is ready and willing to join investigation and cooperate fully. The petitioner undertakes to abide by all conditions that may be imposed by this Court.

5. Per Contra, learned APP for the State opposes the present anticipatory bail application and submits that custodial interrogation is necessary to unearth the truth and verify the allegations in the FIR. It is stated that the police need to ascertain whether any private or objectionable content was disseminated in public, which could attract further penal provisions. However, as per the status report filed by the State, it is not shown at this stage that the applicant has circulated the videos or photos in public or on social media. It is also submitted that the petitioner has not joined investigation and has been declared PO in the present case.

6. This Court has considered the submissions made by both sides and has perused the material on record, including the FIR, status report, and pleadings in the application.

7. It is noted that the allegations, though serious in nature, are yet to be substantiated by technical or forensic evidence. As of now, there is no material on record to show that the petitioner has shared any content in public. Further, there is no explanation as regards to the delay in registration of the FIR.

8. It is also relevant to note that the petitioner is a young boy of tender age, currently studying in Class 12, and has no previous criminal antecedents. He is a permanent resident of Delhi and there is no apprehension of him fleeing from justice, tampering with evidence, or influencing witnesses. Insofar as the averment made by the learned APP that the petitioner has been declared PO is concerned, the same is also not a material factor to be considered at this stage in light of the judgment passed by the Hon'ble

Supreme Court in *Asha Dubey v. State of M.P.*(Criminal Appeal No. 4564/2024, decided on 12.11.2024, [hereinafter, “Asha Dubey”]). Relevant paras of the same are as under:

“8. Coming to the consideration of anticipatory bail, in the event of the declaration under Section 82 of the Cr.P.C., it is not as if in all cases that there will be a total embargo on considering the application for the grant of anticipatory bail.

9. When the liberty of the appellant is pitted against, this Court will have to see the circumstances of the case, nature of the offence and the background based on which such a proclamation was issued...”

9. Given his age and background, the Court is mindful of the long-term implications that any adverse order at this stage may have on his academic and personal life. Moreover, the fact that both the petitioner and the deceased were of tender age and were reportedly in a relationship is also a relevant factor. The petitioner has expressed his willingness to join investigation and cooperate with the police.

10. In light of the above, subject to the petitioner/applicant joining investigation as and when called by the Investigating Officer, no coercive steps shall be taken against him, till the next date of hearing.” 1Criminal Appeal No. 4564/2024, decided on 12.11.2024, [hereinafter, “Asha Dubey”].

5. By order dated 23.02.2026, further directions were issued, in the following terms:

“2. Mr. Tarang Srivastava, learned Additional Public Prosecutor, submits that, although the applicant had initially joined the investigation, he has failed to respond to two subsequent notices issued by the Investigating Officer. He accordingly submits that peremptory directions may be issued to ensure the applicant’s continued cooperation with the investigation.

3. Ms. Shweta S. Kumar, learned counsel for the applicant, states that the applicant remains ready and willing to cooperate with the investigation and shall join as required. She, however, submits that he travelled to Bihar two days ago on account of his father’s illness.

4. In view of the above, the applicant is directed to report to the Investigating Officer on 25.02.2026 at 11:00 A.M., and to extend cooperation with the investigation thereafter, as and when required by the Investigating Officer.

5. The interim protection granted to the applicant shall continue till the next date of hearing, subject to his compliance with the aforesaid direction.

6. It is made clear that the applicant shall remain within the NCT of Delhi. He shall furnish his mobile phone number to the Investigating Officer, and ensure that the same remains switched on and in working condition at all times. The applicant shall also disclose his current residential address to the Investigating Officer and shall reside at the said address.

7. The Investigating Officer is directed to place on record an updated Status Report on the next date of hearing, indicating the progress of the investigation.

8. The Investigating Officer shall also take necessary steps to expedite the FSL report in respect of the mobile phone of the deceased.”

6. In terms of the aforesaid order, an updated status report was filed by the prosecution on 23.03.2026. It was stated therein that, during the course of investigation, it was found that the applicant and the deceased had visited a hotel named Z Black on three occasions (26.11.2023, 21.02.2024, and 30.10.2024) and had registered at the hotel on the basis of forged documents, leading to the addition of Section 338 of the BNS. It was also alleged that the applicant had produced an iPhone on which he had allegedly made videos with the deceased; however, the phone was in a damaged condition, as a result of which Section 238 of the BNS was also added to the case.

7. During the course of investigation, other witnesses were also examined, one of whom stated that the deceased and the applicant were in a relationship, but the applicant had cheated her by developing physical relations with another girl. It was further alleged that the deceased had informed the witness on 25.01.2025 that she and the applicant had established physical relations on that date at her residence. According to the prosecution, the mobile phone in which the videos were recorded is yet to be recovered.

## B. SUBMISSIONS OF COUNSEL

8. Ms. Shweta S. Kumar, learned counsel for the applicant, advanced the following submissions:

a. The applicant is a 19-year-old student with clean antecedents, residing with his family in Delhi, and has been falsely implicated in the present case, on the basis of an afterthought.

b. There is no material to establish any act of instigation, provocation, or abetment of suicide by the applicant, and the allegations are vague and omnibus in nature. The applicant and the deceased were of similar age and were in a consensual relationship.

c. The incident occurred on 26.01.2025, whereas the FIR was registered only on 06.02.2025, and no allegations were made against the applicant at the initial stage, thereby rendering the subsequent implication an afterthought.

d. The applicant had cordial relations with the family of the deceased, and was even called by the complainant on the date of the incident to check on the deceased, as the deceased was not picking up her phone. He remained present even during the last rites. It is only thereafter, upon checking the mobile phone of the deceased, that the present complaint came to be lodged.

e. Even the material relied upon by the prosecution does not disclose any offence of abetment, inasmuch as there is no nexus between the applicant and the act of suicide. The alleged videos were recorded by the deceased herself, she being visible holding the camera, and there is no material to show any circulation thereof by the applicant.

f. The deceased was subjected to physical aggression by her own family members, including her elder brother, as they objected to the relationship between the applicant and the deceased. This constitutes a relevant circumstance bearing upon the cause of the unfortunate incident.

g. The applicant has joined the investigation pursuant to interim protection granted by this Court on 01.09.2025, has handed over his mobile phone, and has cooperated with the Investigating Agency. However, he and his family members have been subjected to undue harassment, affecting his studies as well as that of his younger sister.

h. The investigation conducted thus far does not indicate any role of the applicant in the commission of the alleged offence, and mere recovery of photographs/videos, without any accompanying material demonstrating instigation or cruelty, cannot sustain an allegation under Section 108 of the BNS.

9. Per contra, Mr. Yudhvir Singh Chauhan, learned Additional Public Prosecutor for the State, opposed the application and submitted as follows:

a. The material collected during investigation, including the FSL report, indicates that the applicant had recorded and transmitted obscene/intimate photographs and videos to the deceased through WhatsApp on 25.01.2025, i.e., one day prior to the incident. Although Mr. Chauhan accepted that there is no material to show that the alleged video was circulated by the applicant to any third person, he contended that this cannot be treated as determinative for the grant of anticipatory bail, having regard to the overall facts and circumstances of the case.

b. The applicant was in continuous communication with the deceased for a prolonged duration immediately preceding her death, and the chats reveal that he suspected her of being in a relationship with one "Amit", which circumstance assumes significance in the context of the suicide taking place soon thereafter.

c. The applicant had established physical relations with the deceased, including on 25.01.2025, when he was an adult and she was a minor, and had recorded such acts, thereby attracting serious offences under Section 4 of the POCSO Act and Sections 67A/67B of the IT Act.

d. The applicant had stayed with the deceased in Hotel Z Black on multiple occasions and had used forged identity documents for entry, which led to the addition of further penal provisions during the investigation.

e. The applicant has not cooperated with the investigation in its true sense, inasmuch as he initially failed to join the investigation, was declared a proclaimed offender, and, upon joining investigation, produced a damaged mobile phone instead of the device used for recording the videos, thereby derailing the investigation.

f. Recovery of the actual mobile phone used for recording the videos, as well as forged identity documents, is yet to be effected, and custodial interrogation of the applicant is necessary for that purpose.

g. The applicant is a resident of Nepal and may leave India, thereby raising a reasonable apprehension of flight risk.

h. In these circumstances, the allegations are grave in nature, involving exploitation of a minor and acts immediately preceding her death, and the applicant is not entitled to the discretionary relief of anticipatory bail.

10. Mr. Sandeep Kumar Singh, learned counsel for the complainant (mother of the deceased), adopted the submissions of the State and, in addition, submitted as follows:

a. The applicant was simultaneously involved in relationships with other girls, which reflects his conduct and has a bearing on the mental distress of the deceased.

b. It was contended that the applicant had boasted about his relationship with the deceased before others and had shown such videos to his friends, thereby aggravating the humiliation and distress caused to the deceased.

### C. ANALYSIS

11. The present case undoubtedly concerns serious allegations of abetment of suicide and sexual offences pertaining to a minor. However, even in cases of alleged offences under the POCSO Act, the Court does exercise discretion to grant bail in appropriate cases. A coordinate Bench of this Court in *Dharmander Singh v. State (Govt. of NCT of Delhi)*( 2020 SCC OnLine Del 1267.), identified several factors which the Court would consider in such a situation: 22020 SCC OnLine Del 1267.

“77. Though the heinousness of the offence alleged will beget the length of sentence after trial, in order to give due weightage to the intent and purpose of the Legislature in engrafting section 29 in this special statute to protect children from sexual offences, while deciding a bail plea at the post-charge stage, in addition to the nature and quality of the evidence before it, the court would also factor in certain real life considerations, illustrated below, which would tilt the balance against or in favour of the accused:

- a. the age of the minor victim: the younger the victim, the more heinous the offence alleged;
- b. the age of the accused: the older the accused, the more heinous the offence alleged;
- c. the comparative age of the victim and the accused: the more their age difference, the more the element of perversion in the offence alleged;
- d. the familial relationship, if any, between the victim and the accused: the closer such relationship, the more odious the offence alleged;
- e. whether the offence alleged involved threat, intimidation, violence and/or brutality;
- f. the conduct of the accused after the offence, as alleged;
- g. whether the offence was repeated against the victim; or whether the accused is a repeat offender under the POCSO Act or otherwise;
- h. whether the victim and the accused are so placed that the accused would have easy access to the victim, if enlarged on bail: the more the access, greater the reservation in granting bail;
- i. the comparative social standing of the victim and the accused: this would give insight into whether the accused is in a dominating position to subvert the trial;
- j. whether the offence alleged was perpetrated when the victim and the accused were at an age of innocence: an innocent, though unholy, physical alliance may be looked at with less severity;
- k. whether it appears there was tacit approval-in-fact, though not consent-in-law, for the offence alleged;

l. whether the offence alleged was committed alone or along with other persons, acting in a group or otherwise; m. other similar real-life considerations.

78. The above factors are some cardinal considerations, though far from exhaustive, that would guide the court in assessing the egregiousness of the offence alleged; and in deciding which way the balance would tilt. At the end of the day however, considering the myriad facets and nuances of real-life situations, it is impossible to cast in stone all considerations for grant or refusal of bail in light of section 29. The grant or denial of bail will remain, as always, in the subjective satisfaction of a court; except that in view of section 29, when a bail plea is being considered after charges have been framed, the above additional factors should be considered.

79. It goes without saying that while considering a bail plea at any stage, whether before or after framing of charges, the court would of course apply all the other well settled principles and parameters for grant or denial of bail.”

12. While consent is legally irrelevant in cases involving offences under the POCSO Act, this Court has thus recognised that relationships among young adults, where there may have been de facto approval of both participants for a sexual relationship, however misguided, must be treated on a different footing. The Supreme Court in its recent decision in *State of Uttar Pradesh v. Anurudh & Anr.*( 2026 SCC OnLine SC 40.) acknowledged the recurring invocation of the POCSO Act in cases involving genuine adolescent relationships, and recommended that the Government consider introducing a “Romeo-Juliet clause’ to prevent over-criminalisation of consensual close-in-age relationships.

13. Applying these factors to the present case, the record shows that the applicant himself was just over 18 years old at the time of the unfortunate demise of the deceased. The difference in the ages of the two was less than eight months, the date of birth of the applicant being 28.11.2006 and that of the deceased being 16.07.2007. They were classmates in the same school and, according to the applicant, were in a consensual relationship.

14. In support of the allegation with regard to abetment of suicide, Mr. Chauhan has relied upon extensive communications between the applicant and the deceased in the day or two immediately preceding her death. Copies of the WhatsApp conversations, extracted from the mobile phone of the deceased, form part of the case diary, which was produced in Court. The significance of the contents of the conversations, and the inferences to be drawn therefrom, would have to be examined at trial. At this stage, suffice it to state that the conversations prima facie reveal some discord in the relationship and allegations against each other. However, it cannot be stated at this stage, that they constitute abetment to suicide. As far as the circulation of objectionable photographs and videos is concerned, the same were part of the conversation between the two individuals themselves, and Mr. Chauhan has clearly stated that there is no evidence of the applicant having forwarded them to any third person.

15. Having regard to these factors, particularly the young age of the applicant, I am of the view that the interim protection granted to him by order dated 01.09.2025 is liable to be confirmed. On the basis of the material on record, I do not consider this to be a fit case to render a 19-year-old individual exposed to the risk of custody, with all its ramifications.

16. The fact that the applicant was declared a proclaimed offender, as argued by learned Additional Public Prosecutor, was specifically considered vide order dated 01.09.2025, and interim protection was nonetheless granted, relying upon the judgment of the Supreme Court in *Asha Dubey*. In its recent judgment in *Balmukund Singh Gautam v. State of Madhya Pradesh & Anr.*( 2026 SCC OnLine SC 205,

paragraph 44) also, the Supreme Court has recognised that, in exceptional cases, an absconder may also be granted anticipatory bail. This Court has thus already held that the present case is an exceptional one, in which the Court's discretion may be exercised in favour of the applicant.

17. Coming to the allegation of non-cooperation in the investigation, it is the applicant's case that he has handed over the mobile phone, which he was using at the relevant time, to the police. The applicant cannot be accused of non-cooperation on the ground that he has not handed over a different phone, which he denies having used. Therefore, I do not consider the allegation to be such as to require vacation of the order of interim protection at this stage.

18. For the reasons aforesaid, it is directed that, in the event of arrest, in connection with FIR No. 98/2025, dated 06.02.2025, registered under Section 108 of the BNS at Police Station Bhalswa Dairy, District Outer North, Delhi, the applicant shall be released on bail subject to furnishing a personal bond in the sum of Rs. 35,000/- with two local sureties in the like amount, subject to the satisfaction of the Investigating Officer ["IO"/Station House Officer ["SHO"], and subject to the following conditions:

a) The applicant will report to the IO on each and every occasion, as required by the IO, and will cooperate in the investigation,

b) The applicant will not leave the National Capital Territory of Delhi ["NCTD"] without prior intimation to the IO, and the IO will also be intimated of the applicant's itinerary and place of residence at the destination. The applicant's absence from the NCTD should not exceed the period of seven days at a time.

c) The applicant shall not, directly or indirectly, attempt to contact the complainant or her family, or tamper with the evidence, or otherwise indulge in any act or omission that is unlawful or prejudicial to the proceedings, nor shall he offer any inducement, threat, or promise to any person acquainted with the facts of the case.

d) The applicant shall furnish his mobile number to the concerned IO/SHO and shall keep the said mobile phone operational and switched on at all times. The mobile number shall not be changed or switched off without prior intimation to the IO/SHO.

e) The applicant shall furnish his complete residential address to the IO/SHO, and will not change his residential address without prior intimation to the IO.

f) The applicant shall not commit any offence during the pendency of these proceedings.

19. The bail application is accordingly disposed of.

20. It is clarified that the observations made herein are solely for the purpose of adjudication of the present bail application and shall not be construed as an expression of opinion on the merits of the case, nor shall they prejudice the rights and contentions of the parties at any stage of the proceedings.