

No	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGES'S ORDERS
			<p>BA1 No. 2403 of 2025 <u>Hon'ble Alok Mahra, J.</u></p> <p>Mr. Shubhang Dobhal, learned counsel for the applicant.</p> <p>2. Mr. Prabhat Kandpal, learned A.G.A. for the State.</p> <p>3. The applicant – Tushar Sharma @ Tannu, who is in judicial custody in connection with FIR/Case Crime No. 73 of 2025, under Sections 5(I)/6 of POCSO r/w Section 65(1) of BNS and Section 88 of BNS, registered at P.S.- Kotwali Tanakpur, District Champawat, has sought his release on bail.</p> <p>4. In this case, an FIR was lodged on 08.07.2025 by the mother of the victim, in which, it was alleged that applicant has sexually assaulted her minor daughter. After investigation, chargesheet was filed against the applicant under Sections 5(I)/6 of POCSO r/w Section 65(1) of BNS and Section 88 of BNS.</p> <p>5. Learned counsel for the applicant would submit that at the time of incident, the applicant was 23 years of age and the victim was above 16 years. They were having friendship and relations were made consensually and this is also corroborated by the statement of the victim. The victim and the complainant have also been examined as PW1 and PW2. It is further submitted that the applicant is languishing in jail since 08.07.2025.</p> <p>6. To support his case, learned counsel for the applicant has relied upon a judgment passed by Hon'ble High Court of Delhi in the case of Varun Kumar Singh Vs. State. For ready reference, paragraph nos. 23, 24 and 25 of the</p>

		<p>aforesaid judgment are extracted hereinbelow: -</p> <p>“23. The present is not a case where prosecutrix has been subjected to any violence or brutality, rather it is case in which the prosecutrix appears to be in romantic relationship with petitioner and willingly went with him to Agra. As noted above, even in the FIR it is alleged that prosecutrix and the petitioner were friends.</p> <p>24. Further, the prosecutrix as well as the mother of the prosecutrix and other public witnesses have already been examined. Therefore, there is no question of petitioner exerting any influence on the said witness.</p> <p>25. Furthermore, the petitioner is in custody since 23.08.2023 i.e. for about 2 years and 5 months. It is also not the case of the prosecution that the petitioner has any previous involvements. The presence of the petitioner during trial can otherwise, be ensured by putting appropriate conditions.”</p> <p>7. Learned State Counsel, on the other hand, vehemently opposed the bail application.</p> <p>8. Heard learned counsel for the parties and perused the records.</p> <p>9. Statement of the victim recorded as PW1 under Section 183 of BNSS would reveal that she had liking for the applicant and physical relations made between them were by the consent of the victim.</p> <p>10. Insofar as the offences punishable under the provisions of Protection of Children from Sexual Offences Act, 2012 are concerned, it is pertinent to observe that although the provisions of the said statute are stringent in nature, such rigour does not preclude the Court from exercising its discretionary jurisdiction to grant or refuse bail, where the facts and circumstances of the case so warrant, in order to secure the ends of justice.</p> <p>11. The material on record indicates that the prosecutrix had voluntarily left her parental</p>
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home and accompanied the applicant of her own volition. It is, no doubt, true that under the purview of the POCSO Act, the prosecutrix is legally a minor; however, the facts of the present case reveal that she was possessed of sufficient understanding, maturity, and discernment to comprehend the nature and consequences of her actions, and that she had voluntarily joined the company of the applicant.

12. It is well settled by a catena of decisions of the Hon'ble Supreme Court as well as various High Courts that, in cases involving young offenders and consensual relationships between adolescents, a liberal approach may be warranted at the stage of bail, so as to prevent the regressive and adverse influences of prolonged incarceration and to further the principle of best interest of both the parties involved.

13. Considering the above facts and also considering the fact that applicant and victim were having friendship and relations were made consensually which fact is corroborated by the statement of the victim and applicant is languishing in jail since 08.07.2025, this Court is of the view that it is a case fit for bail and the applicant deserves to be enlarged on bail.

14. The bail application is allowed.

15. Let the applicant be released on bail, on executing personal bond and furnishing two reliable sureties, each of like amount, to the satisfaction of Court concerned.

(Alok Mahra J.)

27.04.2026

Ujjwal