

IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

THE HONOURABLE SRI JUSTICE N.TUKARAMJI

CRIMINAL PETITION No.13216 OF 2026

DATE: 21.08.2026

Between :

Malik Mohammad Amer

... Petitioner

AND

The State of Telangana and Another

... Respondents

ORDER:

This Criminal Petition is filed under Section 482 of *Bharatiya Nagarik Suraksha Sanhita, 2023* (for short, 'BNSS'), seeking the relief of pre-arrest bail.

2. The petitioner is arrayed as sole accused in Crime No.165 of 2026 on the file of Masab Tank Police Station, Hyderabad registered for the offences punishable under Sections 69, 318(2) of *Bharatiya Nyaya Sanhita, 2023* (for short, 'BNS').

3. Heard Mr.Amjad Ali Ansari, learned Counsel for the petitioner, Mr.Divijay Jain, learned counsel for de facto complainant/respondent No.2 and Mr. Syed Yasar Mamoon, learned Additional Public Prosecutor, representing the respondent No.1-State.

4.1. The prosecution case, in brief, is that the petitioner and the de facto complainant were acquainted with each other through their respective occupations. At the relevant time, the de facto complainant was married and had two children. Subsequently, she obtained a divorce from her former husband. It is alleged that thereafter, the petitioner made a false representation and assured the de facto complainant that he would marry her, thereby inducing her to enter into a physical relationship with him. It is further alleged that, during the course of their relationship, the petitioner financially exploited her. Subsequently, the petitioner married another woman on 13.07.2026.

4.2. According to the de facto complainant, the matter was brought to the notice of the elders and the petitioner's family; however, as no appropriate response was forthcoming, she lodged the present report. Her case is that, acting under a misconception regarding the petitioner's intention to marry her, she consented to sexual intercourse, and that the petitioner subsequently abandoned her after obtaining such consent on the false promise of marriage. Based on the report lodged by the de facto complainant, the present crime came to be registered.

5.1. Learned counsel for the petitioner submits that both the petitioner and the de facto complainant are adults and that, at the time of the alleged relationship, the de facto complainant was a married woman with two

children. It is further submitted that the relationship between the parties was consensual and continued for approximately four years, and that such a prolonged relationship, according to the petitioner, cannot subsequently be characterised as one arising from a misconception of fact.

5.2. In support of the said submission, learned counsel places reliance upon the judgment of the Hon'ble Supreme Court in *Lalu Yadav v. State of U.P.*, contending that, having regard to the circumstances of the victim's marriage and the prolonged duration of the relationship, the plea of consent having been vitiated by a misconception of fact could not be accepted, and that the case fell within the scope of a consensual relationship.

5.3. Learned counsel further submits that, even if the allegations in the complaint are taken to be true in their entirety, the ingredients necessary to attract Section 69 of the BNS are not made out. It is also submitted that the petitioner is ready and willing to cooperate with the investigation and to abide by any conditions that may be imposed by the Court. Accordingly, learned counsel prays that the petitioner be granted anticipatory bail.

6.1. Learned counsel appearing for the de facto complainant, on the other hand, submits that the allegations against the petitioner are specific and categorical. According to the de facto complainant, after obtaining a divorce from her former husband, she was in a vulnerable situation, and the

petitioner took advantage of her circumstances by making a false promise of marriage and thereby sexually exploiting her. It is submitted that, acting upon the petitioner's representations and deceitful assurances that he would marry her, the de facto complainant consented to the physical relationship, only to be subsequently abandoned by the petitioner, who ultimately married another woman on 13.07.2026.

6.2. Learned counsel further submits that there are several materials, including voice recordings and video recordings, which allegedly contain evidence relating to the petitioner's false promise of marriage. It is contended that, if the petitioner is granted anticipatory bail, there is a possibility that he may not cooperate with the investigation or may tamper with the evidence. It is further submitted that the petitioner has married and is presently residing in the United States of America and, therefore, there is a likelihood of his being a flight risk. On these grounds, learned counsel prays for dismissal of the petition.

7.1. Per contra, learned Additional Public Prosecutor submits that the averments contained in the complaint disclose specific allegations against the petitioner that he, by making a false promise of marriage, sexually and financially exploited the de facto complainant. It is submitted that the investigation is presently in progress and that the presence of the petitioner

may be required for custodial interrogation for the purpose of conducting an effective investigation.

7.2. Learned Additional Public Prosecutor further points out that the de facto complainant has already furnished certain recordings to the investigating agency and that those materials are yet to be forwarded for forensic examination. It is contended that, if the petitioner is granted anticipatory bail at this stage, there is a possibility that he may not cooperate with the investigation. Accordingly, learned Additional Public Prosecutor prays for dismissal of the petition.

8. I have carefully considered the rival submissions and perused the materials on record.

9. The specific allegation against the petitioner is that, by making a promise of marriage, he induced the de facto complainant to enter into a physical relationship with him and sexually exploited her. It is, however, not in dispute that, when the alleged relationship commenced, the de facto complainant was a married woman with two children and subsequently obtained a divorce from her former husband. It is also the petitioner's case that the relationship continued for several years. These circumstances are relevant while considering the nature of the relationship and the allegation that her consent was obtained on a promise of marriage. At the stage of

anticipatory bail, however, this Court is not required to undertake a meticulous appreciation of evidence or conclusively determine factual aspect of any allegation.

10. The object of anticipatory bail is to protect personal liberty while balancing it against the legitimate requirements of investigation. In *Siddharam Satlingappa Mhetre v. State of Maharashtra*, (2011) 1 SCC 694, the Hon'ble Supreme Court held that, while considering such relief, the Court should have regard, inter alia, to the nature and gravity of the accusation, the role attributed to the accused, the possibility of his fleeing from justice, tampering with evidence or influencing witnesses, and the genuine requirement of custodial interrogation. Likewise, in *Arnesh Kumar v. State of Bihar*, (2014) 8 SCC 273, the Supreme Court emphasised that arrest should not be made mechanically and that its necessity must be justified in accordance with law.

11. In the present case, although the allegations are serious and relate to the alleged obtaining of consent for sexual intercourse on a promise of marriage, the seriousness of the accusation by itself does not make custodial arrest indispensable. Section 69 of the BNS, concerns sexual intercourse obtained by deceitful means, including a promise to marry made without intention of fulfilling it, where the act does not amount to rape. Whether the petitioner's alleged promise was false from its inception

and whether the ingredients of the said provision are ultimately established are matters to be determined on the basis of the investigation and evidence.

12. The principal objection of the de facto complainant is that the petitioner may tamper with the evidence, influence witnesses or otherwise interfere with the investigation, and may evade the process of law. Such apprehensions warrant consideration; however, in the absence of specific material demonstrating a real likelihood of absconding, influencing witnesses, tampering with evidence or obstructing the investigation, the same can be addressed by imposing appropriate conditions.

13. Having regard to the aforesaid principles and the material presently available, this Court finds no compelling circumstance demonstrating that custodial arrest of the petitioner is indispensable for a fair and effective investigation. The petitioner has categorically undertaken to cooperate with the investigation and to abide by any conditions imposed by this Court. Accordingly, without expressing any opinion on the merits of the prosecution case or the ultimate applicability of Section 69 of the BNS, this Court is of the view that the petitioner has made out a case for grant of anticipatory bail.

14. For the aforesaid reasons, this Criminal Petition is allowed, subject to following conditions.

(A) The petitioner/Accused shall surrender before the Station House Officer, Masab Tank Police Station, Hyderabad on or before 05.09.2026. Upon such surrender or in the event of arrest the Station House Officer shall release him on bail on execution of a personal bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties for a like sum each, to the satisfaction of the said officer.

(B) The petitioner shall appear before the Investigating officer on every Tuesday and Saturday between 10.00AM to 03.00PM, for a period of twelve (12) weeks from the date of his release on bail or until the filing of the final result, whichever is earlier.

(C) The petitioner shall remain available for investigation as and when required by the Investigating Officer and shall cooperate fully with the investigation.

(D) The petitioner shall furnish his complete residential address and contact details to the Investigating Officer and shall keep the same updated throughout the course of investigation.

(E) The petitioner shall not either directly or indirectly induce, threaten, influence, or contact any prosecution witness, nor shall he tamper with the prosecution evidence in any manner whatsoever.

(F) The petitioner shall strictly comply with all the conditions contemplated under Section 482(2) of the BNSS.

(G) Any wilful breach or violation of any of the aforesaid conditions shall render the petitioner liable to appropriate proceedings before the court below, including cancellation of bail, in accordance with the provisions of the BNSS and other applicable law.

15. It is made clear that any observations made herein are confined solely to the adjudication of the present application for anticipatory bail and shall not be construed as an expression on the merits of the case. Miscellaneous applications, if any pending, shall stand closed.

Date: 21.08.2026
CHS

N.TUKARAMJI, J

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