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

CNR No. DLHC010399632026

+ **BAIL APPLN. 3522/2026 and CRL.M.A. 26223/2026**

ASHOK KUMAR

.....Petitioner

Through: Mr. Shubham Asri and Mr. Anmol
Sharma, Advocates.

versus

STATE GOVT OF NCT OF DELHI AND ANR

.....Respondent

Through: Mr. Naresh Kumar Chahar, APP for
State.
Respondent no.2 in person (Thr. VC)

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDR KUMAR KAURAV

ORDER

% **25.08.2026**

1. The applicant seeks grant of anticipatory bail in connection with FIR No. 314/2026, registered at Police Station Palam Village, Delhi, for offences punishable under Section 376 of the Indian Penal Code, 1860 (IPC) and Sections 115 and 3(5) of the Bharatiya Nyaya Sanhita, 2023. (BNS)
2. Mr. Shubham Asri, learned counsel for the applicant, submits that the applicant has been falsely implicated, the relationship between the applicant and the complainant was consensual and continued for several years, and no false promise of marriage was ever made to the complainant. The allegations, according to him, have surfaced only after the relationship



between the parties turned sour. He further submits that the applicant had joined the investigation and cooperated with the Investigating Officer (IO), the investigation has substantially been completed, the relevant mobile phones have been seized and the charge-sheet has already been prepared and is under scrutiny. Therefore, according to learned counsel, no purpose would be served by subjecting the applicant to custodial interrogation, and he is entitled to the protection of anticipatory bail.

3. Mr. Naresh Kumar Chahar, learned APP for the State, submits that the applicant did not cooperate with the investigation despite being granted interim protection from arrest. During interrogation, the applicant admitted to using two mobile phones; however, he failed to produce the other mobile phone from which the relevant recovery was required to be effected. It is submitted that the said conduct of the applicant demonstrates his lack of cooperation and warrants custodial interrogation of applicant.

4. I have heard the learned counsels and perused the record.

5. The facts of the case would indicate that the applicant and the complainant came into contact through a social media platform and remained acquainted for several years. During the course of their relationship, allegations arose that the applicant established physical relations with the complainant, initially without her consent and subsequently on the assurance of marriage. It is further alleged that disputes arose between the parties when the applicant did not marry the complainant, culminating in the lodging of the present FIR, which also contains allegations of threats and physical assault.

6. The principles governing the grant of anticipatory bail have been succinctly and authoritatively settled by the Constitution Bench of the



Supreme Court in **Gurbaksh Singh & Ors. v. State of Punjab**,¹. It was held that the power under Section 438 CrPC is an extraordinary discretionary remedy intended to protect personal liberty and is to be exercised on the facts and circumstances of each case. The Constitution Bench further held that while exercising such discretion, the Court must strike a balance between the individual's right to personal liberty and the investigational powers of the police. It was also observed that anticipatory bail cannot be granted on vague or general apprehensions and that no inflexible restrictions or conditions, not envisaged by the statute, can be imposed while considering an application under Section 438 CrPC.

7. The Supreme Court in **P. Chidambaram v. Directorate of Enforcement**,² held that the power under Section 438 CrPC has to be exercised sparingly. The privilege of pre-arrest bail should only be granted in exceptional cases. Paragraph no. 67 is reproduced as under:-

“67. Ordinarily, arrest is a part of procedure of the investigation to secure not only the presence of the accused but several other purposes. Power under Section 438 Cr.P.C. is an extraordinary power and the same has to be exercised sparingly. The privilege of the pre-arrest bail should be granted only in exceptional cases. The judicial discretion conferred upon the Court has to be properly exercised after application of mind as to the nature and gravity of the accusation; possibility of applicant fleeing justice and other factors to decide whether it is a fit case for grant of anticipatory bail. Grant of anticipatory bail to some extent interferes in the sphere of investigation of an offence and hence, the Court must be circumspect while exercising such power for grant of anticipatory bail. Anticipatory bail is not to be granted as a matter of rule and it has to be granted only when the Court is convinced that exceptional circumstances exist to resort to that extraordinary remedy.

[emphasis supplied]

8. The Supreme Court in **State of Maharashtra & Ors. v. Mohd. Sajid**

¹ (1980) 2 SCC 565

² Crl. Appeal No. 1340/2019, decided on 05.09.2019.



Hussain Mohd. S. Husain³ provided relevant factors for considering the application for grant of anticipatory bail. Paragraph no. 20 is reproduced as under: -

“20. The four factors, which are relevant for considering the application for grant of anticipatory bail, are:

- “(i) the nature and gravity or seriousness of the accusation as apprehended by the applicant;*
- (ii) the antecedents of the applicant including the fact as to whether he has, on conviction by a Court, previously undergone imprisonment for a term in respect of any cognizable offence;*
- (iii) the likely object of the accusation to humiliate or malign the reputation of the applicant by having him so arrested; and*
- (iv) the possibility of the applicant, if granted anticipatory bail, fleeing from justice.”*

[emphasis supplied]

9. Applying the aforesaid principles to the facts of the present case, this Court finds that the allegations against the applicant are serious in nature and relate to the establishment of physical relations with the complainant on the alleged false pretext of marriage. It is also borne out from the record that, despite interim protection from arrest, the applicant failed to extend the requisite cooperation during investigation and, though admitting to the use of two mobile phones, did not produce the other device from which relevant recovery was sought to be effected.

10. Significantly, following the dismissal of his earlier application for anticipatory bail, the applicant has remained unavailable to the investigating agency, leading to the issuance of Non Bailable Warrants against him. Such conduct assumes considerable significance while assessing the likelihood of the applicant fleeing from justice, which is one of the relevant considerations for grant of pre-arrest bail.

³ (2008) 1 SCC 213.



11. Accordingly, in view of the aforesaid facts and circumstances, the present application seeking anticipatory bail is rejected. The applicant is directed to surrender before the concerned authority in accordance with law.

12. In the event the applicant surrenders and moves an application for regular bail, the same shall be considered on its own merits and in accordance with law.

13. With the aforesaid observations, the application stands disposed of.

14. Pending applications, if any, also stands disposed off.

PURUSHAINDR KUMAR KAURAV, J

AUGUST 25, 2026

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