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**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

**CRM-M-53945-2024
Date of Decision: 22.01.2025**

Afroz Khan

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Namit Khurana, Advocate,
for the petitioner.

Mr. Vishal Kashyap, DAG, Haryana.

Mr. Gurjant Singh, Advocate,
for the complainant.

JASGURPREET SINGH PURI, J. (ORAL)

1. The present petition has been filed under Section 482 of the BNSS for grant of anticipatory bail to the petitioner in FIR No.81, dated 15.10.2024 under Sections 69, 351(2), 89, 115 of BNS, 2023, registered at Police Station Women Yamuna Nagar, District Yamuna Nagar.

2. The present FIR was lodged on the basis of a complaint of the prosecutrix by alleging that she is a student of B.A. Final Year in the college of Yamuna Nagar and she knew the present petitioner for the last 1½ years and he asked her to develop friendship on which both of them became friends. There was a marriage proposal from the side of the petitioner and after marriage, they would go abroad and thereafter, the petitioner had also assured the prosecutrix/complainant that they will marry to each other and



thereafter, the petitioner established physical relationship with the complainant although she was not willing to establish the physical relations. Thereafter, a dispute arose between them and on that reason, the present FIR was lodged under Sections 69, 351(2), 89, 115 of BNS, 2023.

3. Learned counsel for the petitioner has submitted that in pursuance of the orders passed by this Court, on 04.11.2024, wherein interim bail was granted to the petitioner and in terms of the aforesaid order, he has already joined the investigation and has also co-operated with the investigation process and has prayed that the aforesaid interim bail granted to the petitioner may be made absolute.

4. On the other hand, Mr. Vishal Kashyap, learned DAG, Haryana has filed reply by way of an affidavit of Deputy Superintendent of Police, Jagadhri, Yamuna Nagar and the same is taken on record. He submitted on instructions from ASI Kamla, who is the I.O. of the case and is also present in the Court that in pursuance of the order dated 04.11.2024, the petitioner has joined the investigation and has fully co-operated with the investigation process and is not required for custodial interrogation.

5. Mr. Gurjant Singh, Advocate has caused appearance and filed his Vakalatnama on behalf of the complainant, which is taken on record. He has opposed the grant of anticipatory bail to the petitioner by submitting that when notice of motion was issued by this Court, then learned counsel for the petitioner had contended that the petitioner is still willing to marry the complainant but he has again resiled to marry the complainant and therefore, considering the conduct of the petitioner, he is not entitled for grant of anticipatory bail.



6. At this stage, learned counsel for the petitioner has supplied a copy of an affidavit which has been sworn by the complainant about two days before i.e. on 20.01.2025. The same is taken on record and marked as 'X'. Registry is directed to tag the same at an appropriate place. A copy thereof has also been supplied to the learned counsel for the complainant. While referring to the aforesaid affidavit, learned counsel for the petitioner submitted that Panchayat was convened and it was decided with the consent that the petitioner will marry the complainant and in this regard, rather the complainant being satisfied furnished the aforesaid affidavit before the Panchayat that she does not have any grievance against the petitioner and there has been a compromise between the parties and she has wrongly got the case registered. He further submitted that it has been so stated in the affidavit that the matter has been compromised between the parties, but there is no averment in the affidavit that the marriage will be solemnized.

7. Learned counsel for the complainant on perusing the aforesaid affidavit has submitted that rather the complainant is also present in the Court and on asking from her as to whether she furnished the aforesaid affidavit or not, to which he submitted that it is correct and it is verified that the complainant had actually sworn in the affidavit because the Panchayat was convened on 20.01.2025 and in pursuance of the decision of the Panchayat and her satisfaction the aforesaid affidavit has been furnished by her which is not in dispute. He however submitted that even after the furnishing the aforesaid affidavit, the petitioner has resiled and refused to marry the complainant and therefore, considering the conduct of the petitioner, he is not entitled for grant of anticipatory bail.



8. I have heard the learned counsels for the parties.

9. It is a case where as per the allegations of the complainant, who is stated to be of the age of 21 years, has filed a complaint before the police against the petitioner that they had developed relations for 1½ years and the petitioner on the false pretext of marriage had established physical relations with the complainant. It has also come up in the FIR that the complainant has refused to the physical relationship but the factum that they became friends is admitted in the FIR itself.

10. As per the learned State counsel, in pursuance of the order dated 04.11.2024, the petitioner has already joined investigation and has fully co-operated with the investigation process and is not required for custodial interrogation.

11. Today, a contrary stand was taken by both the learned counsels for the petitioner and the complainant wherein on the one hand the complainant furnished an affidavit duly sworn before the Notary on 20.01.2025 and it is also an admitted position between both the learned counsels for the parties that the Panchayat was convened and a compromise was effected but the question which remained unanswered was whether the petitioner thereafter confirmed that he will marry the complainant or not. A perusal of the aforesaid affidavit would show that it has not been stated in the affidavit that because the petitioner has agreed for marriage that the compromise has been effected but it was a simple kind of compromise/affidavit wherein the complainant has stated that she has now no grievance against the petitioner.

12. The fact as to whether the petitioner is now willing to marry the



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complainant or not and as to whether he refuses to marry at a later stage or not, itself cannot become a ground for denial of anticipatory bail to the petitioner in the peculiar facts and circumstances of the present case and especially when he has already joined investigation and he is not required by the police for custodial interrogation and more particularly when the complainant is a girl of the age of 21 years i.e. above the age of majority. The liberty of the petitioner cannot be jeopardized only because of the aforesaid reason.

13. Consequently, this Court is of the view that the present petition deserves to succeed and the same is allowed. The order dated 04.11.2024 is hereby made absolute.

14. However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is only meant for the purpose of decision of present petition.

22.01.2025*Bhumika***(JASGURPREET SINGH PURI)
JUDGE**

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| 1. Whether speaking/reasoned: | Yes/No |
| 2. Whether reportable: | Yes/No |