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IN THE HIGH COURT OF DELHI AT NEW DELHI

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BAIL APPLN. 1328/2025

SHUBHAM CHATURVEDI

.....Applicant

Through: Mr. Abhishek Kumar
Dwivedi, Mr. Vikash
Kumar and Mr. Ashutosh
Kumar Pandey,
Advocates.

versus

THE STATE GOVT
OF NCT OF DELHI

.....Respondent

Through: Ms. Kiran Bairwa, APP
for the State with ACP
Vijay, PS Punjabi Bagh
Sub Division and SI Rajni
Kant, PS Kirti Nagar.
Mr. Rahul Anand, Ms.
Alka Ahir, Mr. Chander
Prakash, Mr. Aman
Anand, Mr. Prateek Anand
and Ms. Kavya Sinha,
Advocates for
victim/prosecutrix along
prosecutrix in person.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

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08.07.2025

1. The present application is filed seeking regular bail in FIR No. 105/2024 dated 31.01.2024, registered at Police Station Kirti Nagar, for offences under Sections 376(2)(n)/328/506 of the Indian Penal Code, 1860 ('IPC').
2. The brief facts of the case are that in April, 2023, the prosecutrix/ complainant made the acquaintance with the applicant through Facebook. It is alleged that the applicant called the victim on the pretext of helping her secure a job and took her to an Oyo Hotel. There, the applicant allegedly made the

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prosecutrix drink a cold drink and which she felt dizzy and lost consciousness. On regaining consciousness, the prosecutrix found herself in bed with the applicant without clothes. It is alleged that the applicant established physical relations with the prosecutrix without her consent and also recorded her videos and clicked her photographs. It is alleged that when the prosecutrix threatened to take action against the applicant, he started emotionally blackmailing her and promised to marry her. Thereafter, the applicant went with the prosecutrix to Banaras and in a temple, he again promised to marry her. On 01.11.2023, when the prosecutrix left to appear for an exam by handing her mobile phone to the applicant, the applicant allegedly deleted all proofs of their relationship.

3. It is alleged that the applicant refused to marry the prosecutrix by citing the difference in their castes. It is further alleged that the prosecutrix had made a complaint previously as well, which was withdrawn on assurance of the applicant that he will marry her. On 30.01.2024, the parties were scheduled to get married in Tis Hazari Court, however, the applicant failed to show up which led the complainant to file complaint and consequently, the present FIR was registered.

4. Initially, chargesheet was filed against the applicant for the offences under Sections 376(2)(n)/506 of the IPC. The prosecutrix had also filed a separate representation with the SC & ST commission, pursuant to which, during supplementary investigation, the statement of the prosecutrix was recorded where she stated that on 01.11.2023, the applicant had made caste-based comments against her at the INA metro station. Supplementary chargesheet was filed against the applicant and offences under Sections 3(1)(w)/3(2)(v)/3(2)(va) of the



Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 ('**SC and ST Act**') and under Section 509 of the IPC were added.

5. The applicant was arrested on 31.01.2024 and is in custody since then.

6. The learned counsel for the applicant submits that the applicant is innocent and he has been falsely implicated in the present case.

7. He submits that although the prosecutrix has alleged in the FIR that the applicant had established physical relations with her on the promise of marriage, however, she has admitted during her cross-examination that she did not want to marry the applicant. He submits that considering the said admission, there is no question of the sexual relations being established under any deception. He further submitted that the prosecutrix has also admitted that the applicant never threatened her or made any demands from her.

8. He submits that the applicant is alleged to have used a casteist slur against the prosecutrix at a metro station, but no public witnesses have been joined to corroborate the said allegations. He submits that the prosecutrix had not made any allegation of slurs being used against her on WhatsApp in the FIR and no such messages were found in this respect in FSL of the seized mobile phones as well.

9. He further submits that there is no specific finding in the FSL report that the obscene material found on the mobile of the applicant pertains to the prosecutrix either. He submits that the police had deleted the offences under sections 354, 384 and 428 of the IPC and Section 66 of the Information Technology Act, 2000 ('**IT Act**') as no material evidence was found.



10. He submits that the investigation is completed and the chargesheet and supplementary chargesheet have already been filed against the applicant. He further submits that the trial is likely going to take long to conclude and no purpose will be served by subjecting the applicant to undergo further incarceration, especially since the cross-examination of the prosecutrix is complete.

11. *Per contra*, the learned counsel for the prosecutrix submits that the prosecutrix has reiterated her allegations and supported the case of the prosecution in her deposition. She further submits that the prosecutrix had categorically alleged in the FIR that the applicant had deleted certain incriminating texts from her mobile phone and the FSL report shows that obscene material was found on the mobile of the applicant.

12. She submits that the investigation shows the presence of the applicant as well as the prosecutrix at the metro station at the relevant time, which corroborates the allegations in relation to use of casteist slur.

13. She further submits that the applicant was not chargesheeted for offences under SC and ST Act despite multiple reminders and an enquiry was done against the concerned IO for dereliction of duty in this regard as well.

14. The learned Additional Public Prosecutor for the State seconds the submission made by the learned counsel for the prosecutrix. She vehemently opposes the grant of any relief to the applicant as the offences as alleged against the applicant are serious in nature.

15. I have heard the counsel and perused the record.

16. It is settled law that the Court, while considering the application for grant of bail, has to keep certain factors in mind,



such as, whether there is a *prima facie* case or reasonable ground to believe that the accused has committed the offence; the nature and gravity of the accusation; severity of the punishment in the event of conviction; the danger of the accused absconding or fleeing if released on bail; reasonable apprehension of the witnesses being threatened; etc. However, prolonged incarceration is also a factor which has to be kept in mind at the time of deciding the question of grant or refusal of bail.

17. It is alleged that the applicant first raped the prosecutrix by meeting her on the pretext of helping her to secure a job. Thereafter, the applicant allegedly established physical relations with the prosecutrix by making false promises of marriage, however, the applicant refused to marry the prosecutrix later by citing the excuse of their caste differences. It is also alleged that the applicant used casteist slurs against the prosecutrix.

18. As far as the allegations of the applicant administering some stupefying substance to the prosecutrix before raping her is concerned, while it is not in doubt that that the mere statement of the prosecutrix is sufficient for establishing the offence of rape if the same inspires confidence, however, *prima facie*, in the absence of any evidence to support the said allegation, the possibility of the intercourse being consensual between the parties from the outset cannot be ruled out and would be tested after the entire evidence is led.

19. It is pertinent to note that although the prosecutrix has alleged that the applicant had raped her for the first time in April, 2023, however, the FIR was registered on 31.01.2024, after the applicant allegedly failed to show up for court marriage. The Hon'ble Apex Court in ***Pramod Suryabhan Pawar v. The State of Maharashtra & Anr.***: (2019) 9 SCC 608, has summarised the
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legal position when a woman complains of sexual intercourse on a false promise of marriage. It was held as under:

“18. To summarise the legal position that emerges from the above cases, the “consent” of a woman with respect to Section 375 must involve an active and reasoned deliberation towards the proposed act. To establish whether the “consent” was vitiated by a “misconception of fact” arising out of a promise to marry, two propositions must be established. The promise of marriage must have been a false promise, given in bad faith and with no intention of being adhered to at the time it was given. The false promise itself must be of immediate relevance, or bear a direct nexus to the woman’s decision to engage in the sexual act.”

20. It is to be seen whether the person who has made the promise to marry was dishonest from the beginning and had no intention of upholding his word even at the time of making the promise. Mere breach of a promise to marry at a belated stage cannot be termed as a false promise.

21. It appears that the parties were in a relationship for over eight months and the promise to marriage was made in April, 2023. Although the case of the prosecution is primarily thrust on the allegations of the applicant having established sexual relations by making false promises of marriage, as also pointed out by the learned counsel for the applicant, the prosecutrix has stated in her cross-examination that she never loved the accused and it is wrong to suggest that she wanted to marry him. *Prima facie*, the same casts a doubt on the veracity of the case of the prosecution. Whether the promise to marry was ever given by the applicant, or if the same was given in bad faith to induce the consent of the prosecutrix, cannot be established at this stage, and the same would be a matter of trial.

22. Insofar as the allegations in relation to casteist slurs being used are concerned, it is pertinent to note that no such WhatsApp chats were found between the parties. It is peculiar that no public



witness could be found even though the slur was allegedly spoken by the applicant at a metro station, which is usually crowded. The learned counsel for the prosecutrix has contested that no chats were found as the applicant had apparently deleted all chats when the prosecutrix had entrusted her mobile to him while going for an exam. While the prosecution may be able to prove these allegations in trial after leading evidence, at this stage, the benefit of absence of independent material to support these allegations cannot be denied to the applicant.

23. Although the FSL report reflects that certain obscene videos were found in the data retrieved from the seized mobile phones, however, at this stage, it is not clear as to whether the said videos related to the prosecutrix or were general obscene/pornographic videos.

24. It is pertinent to note that the investigation is already complete and the matter is at the stage of prosecution evidence. The applicant has been in custody since 31.01.2024, despite which, only the complainant has been examined till now out of the twenty-six prosecution witnesses. The trial is not likely to conclude in the near future.

25. The object of jail is to secure the appearance of the accused during the trial. The object is neither punitive nor preventive and the deprivation of liberty has been considered as a punishment.

26. However, appropriate conditions ought to be put to allay the apprehension of the applicant tampering with the evidence or evading the trial.

27. In view of the above, without commenting further on the merits of the case, I am of the opinion that the applicant has made out a *prima facie* case for bail.



28. However, appropriate conditions ought to be put to allay the apprehension of the applicant tampering with the evidence or evading the trial.

29. In view of the aforesaid discussion, the applicant is directed to be released on bail on furnishing a personal bond for a sum of ₹20,000/- with two sureties of the like amount, subject to the satisfaction of the learned Trial Court, on the following conditions:

- a. The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case or tamper with the evidence of the case, in any manner whatsoever;
- b. The applicant shall under no circumstance leave the boundaries of the country without permission of the learned Trial Court;
- c. The applicant shall appear before the learned Trial Court as and when directed;
- d. The applicant shall provide the address where he would be residing after his release and shall not change the address without informing the concerned IO/ SHO;
- e. The applicant shall, upon his release, give his mobile number to the concerned IO/SHO and shall keep his mobile phones switched on at all times.

30. In the event of there being any FIR/ DD entry/ complaint lodged against the applicant, it would be open to the State to seek redressal by filing an application seeking cancellation of bail.

31. It is clarified that any observations made in the present order are for the purpose of deciding the present bail application



and should not influence the outcome of the trial and also not be taken as an expression of opinion on the merits of the case.

32. The bail application is allowed in the aforementioned terms.

AMIT MAHAJAN, J

JULY 8, 2025