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

+ **BAIL APPLN. 1555/2025 & CRL.M.A. 18412/2025**

RAVI KUMAR

.....Petitioner

Through: Mr.Raj Kishor Choudhary,
Mr.Shakeel Ahmed, Ms.Shalini
Tripathi and Ms.Pratibha Singh,
Advocates

versus

THE STATE (NCT OF DELHI) & ORS.

.....Respondents

Through: Mr.Sanjeev Sabharwal, APP for the
State

CORAM:

HON'BLE MR. JUSTICE ARUN MONGA

ORDER

12.09.2025

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1. The applicant herein is before this Court seeking regular bail, having remained under incarceration since 30.11.2024, i.e. more than 9 months, in a criminal case arising out of FIR No. 568/2024 dated 29.11.2024 for the alleged offences punishable under Sections 376(2)(n), 506 of the IPC, registered at Police Station Khajuri Khas, North-East, Delhi.

2. Briefly speaking, the case set up by the prosecution is that in the year 2015 her marriage was solemnized with the Rocky (applicant's elder brother). Thereafter, frequent quarrels arose between the complainant and her husband, who failed to take care of her and would send her with the applicant. Upon the birth of a daughter, the husband ceased to maintain the complainant and the child. Owing to differences in their attitude and



temperaments, the complainant and her husband, namely the elder brother of the accused, obtained a decree of divorce by mutual consent *vide* order dated 02.09.2022 passed by the competent Family Court.

3. Thereafter, it is alleged that the applicant professed love for prosecutrix, and assured that he would marry her. Subsequently, 2016 onwards, the applicant started residing with the complainant and established physical relations with her. When she pressed for marriage, the applicant avoided the same on the pretext that he would marry only her and no other girl. The complainant conceived during this period, however, the applicant administered medicine to abort the pregnancy. Distressed by these events, she disclosed the matter to her father-in-law, who instructed her to live with the applicant, who also executed an affidavit affirming that he would marry the complainant and would not resile from his commitment.

3.1 Consequently, medical examination of the complainant was conducted at JPC Hospital *vide* MLC No. 10063/2024, leading to registration of the present FIR.

4. In the aforesaid backdrop, I have heard the rival contentions and perused the case file.

5. Learned counsel for the applicant would *inter alia* argue on the lines of grounds pleaded in the petition as below:-

5.1 That the applicant was arrested on 30.11.2024. *Vide* order dated 19.12.2024, the learned ASJ, Karkardooma Courts, Delhi, without cogent reason, dismissed the first regular bail application of the applicant.

5.2 That the applicant thereafter filed a second bail application before the learned District and Session Judge, Karkardooma Courts, Delhi under Section 483 of BNSS 2023, and the same was registered as Bail Matter



1205/2024. The said application was dismissed on 08.01.2025 on the ground that the allegation is serious in nature.

5.3 That the case against the applicant is false, frivolous, vexatious and an abuse of power vested with the police, which has resulted in making the applicant an accused.

5.4 He would argue that she was deeply in love with the applicant and was also aware that since she was his sister-in-law, marriage was not possible, and that such a proposal was bound to be opposed by family members.

5.5 He would further argue that she had sufficient intelligence to understand the significance and moral quality of the act to which she was consenting which was why she kept it a secret for as long as she could.

5.6 That the prosecutrix thus freely exercised her choice between resistance and assent. He would argue that the circumstances clearly show that she voluntarily and consciously consented to having sexual intercourse with the applicant, and her consent was not in consequence of any misconception of fact.

5.7 That a plain reading of the complaint lodged by the prosecutrix reveals that she fell in love with the applicant and established physical relations with him willingly and voluntarily, which does not amount to rape.

5.8 He would urge that it would indeed be a travesty of justice to keep a person in jail for a long period for an offence which is ultimately found not to have been committed by him.

5.9 He would place reliance on the judgment rendered by the Supreme Court in ***Naim Ahamed v. State (NCT of Delhi)***, [2023] 1 S.C.R. 1061, wherein while dealing with allegations under Sections 375 and 376 IPC



based on a purported false promise to marry, held that in the facts of that case, the prosecutrix was a mature, consenting adult who continued a long-term relationship with the accused, and thus her consent could not be said to have been obtained under a misconception of fact. The Court distinguished between a false promise made with no intention to marry from the outset, and a subsequent breach of a genuine promise due to unforeseen circumstances.

5.10 He would argue that the facts of the present case are on a similar footing, and therefore, the applicant is entitled to the benefit of the principles laid down in the aforesaid judgment for the grant of bail.

6. Opposing the above submissions, the learned APP for the state argues that the instant bail application is *sans* merit and the applicant is not entitled to any relief at this stage as there remains a genuine risk of him absconding, influencing witnesses, and tampering with crucial evidence. He further submits that the offense is serious in nature and no case of bail is made out at this stage.

7. Having heard, I am of the view that there may be some substance in some of the arguments addressed on merits by the learned counsel for the applicant but the same are a matter of trial. However, at this stage, in light thereof, it is otherwise a fit case for bail. Let us see how.

8. The consent given by a prosecutrix to sexual intercourse with a person with whom she is deeply in love, on a promise that he would marry her at a later date, cannot be said to be given under a misconception of fact. A false promise is not a fact within the meaning of the Penal Code and in the instant case, the prosecutrix was a grown-up woman having a child from an earlier marriage.



9. The applicant has already remained in custody for more than 9 months. Investigation is over *qua* him as the charge sheet has been filed on 25.01.2025, he is thus not required for any custodial investigation. The trial is moving at a snail's pace and further continued incarceration would serve no useful purpose, especially when the trial is not likely to conclude in the near future as it violates the fundamental rule i.e. bail is the rule and jail an exception.

10. As regards the apprehension of tampering with evidence or influencing or intimidating the witnesses, there is nothing on record to support such apprehension, which appears unfounded.

11. The applicant has been in custody since 30.11.2024, has cooperated throughout the investigation, and there is nothing to suggest that he would abscond, interfere with evidence, or influence witnesses. One of the primary objects of bail is to secure the presence of the accused during trial. The applicant has no criminal antecedents, poses no flight risk, and continued detention may amount to punishment before conviction, at this stage.

12. As an upshot and taking a wholesome view of the matter, I am of the view that it is a case of bail at this stage.

13. Thus, the applicant is directed to be released on bail on his furnishing personal bond with solvent surety of like amount to the satisfaction of the Trial Court/Duty Judge concerned as the case may be, subject to the other usual conditions to be imposed by the learned Trial Court/Duty Court.

14. Any observation made herein above is only for the purpose of disposing of the instant bail application and not to be construed, in any manner, as any expression on the merits of the pending case and the trial shall proceed without being influenced either way by the same.



15. Accordingly, the bail application, alongwith pending application, stands disposed of.

ARUN MONGA, J

SEPTEMBER 12, 2025/dy