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

+ **BAIL APPLN. 1794/2025**

UTKARSH CHAHAR

.....Petitioner

Through: Mr. Arkaj Kumar, Mr. Aakarsh Mishra, Ms. Vaishnavi Bhargava, Mr. Akshat Khanna, Mr. Sukrit Gupta, Ms. Ananya Giri, Advocates.

versus

THE STATE NCT OF DELHI & ANR.

.....Respondents

Through: Mr. Sanjeev Sabharwal, APP for the State with Saloni, PS – Anand Parbat. Ms. Anushkaa Arora and Mr. Taranpreet Singh, Advocates for respondent no. 2.

CORAM:

HON'BLE MR. JUSTICE ARUN MONGA

ORDER

18.09.2025

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1. The applicant herein is before this Court seeking regular bail, having remained under incarceration since 29.12.2024, in a criminal case arising out of FIR No. 567/2024 dated 26.12.2024 for the alleged offences punishable under Sections 376(2)(n), 313 and 328 of the IPC, registered at Police Station Anand Parbat.

2. Briefly speaking, the case set up by the complainant/prosecution, as per the FIR, is that:-

2.1 The complainant, aged 24 years, is a Research Nurse at the Hemato-Oncology Department, Safdarjung Hospital, Delhi. She met accused Utkarsh



Chahar on the dating app "Hinge" in January 2024, when she was working at LHMC. They met at Connaught Place, began talking over WhatsApp and calls, became friends, and thereafter started meeting frequently.

2.2 On 08.03.2024, the accused took the complainant to an Airbnb Guesthouse at Gurugram, where he established physical relations with her for the first time on the promise of marriage. Thereafter, they met frequently at various places including Taj Vivanta, Surajkund, Faridabad, and the accused's residence (when his family was away). Physical relations continued on several such occasions, with the accused consistently assuring her that he loved her and would marry her.

2.3 They also travelled together to Uttarakhand and Agra, staying at Taj Convention Center. The complainant conceived on 15.09.2024 and discovered her pregnancy on 16.10.2024. She informed the accused, who initially refused to marry her and pressurised her for abortion. He later assured her of marriage and of keeping the child but kept changing his stand. The complainant also informed the accused's mother and brother (Ankit @ Prashant) about her pregnancy, but they supported the accused's refusal to marry and pressured her for abortion. By then, she had completed 13 weeks of pregnancy.

2.4 On 14.12.2024, after a dispute with her family, the complainant was thrown out of her house and remained outside the whole day, calling the accused. At night, the accused took her to Vivanta Surajkund, Faridabad, where he again got physical with her despite her pregnancy. On 17.12.2024, he persuaded her to accompany him to Agra on the assurance of arranging accommodation for them. At Homestay Snivalyaa, she alleges that the accused gave her coffee laced with some unknown substance on 18.12.2024



and repeated the same on 19.12.2024.

2.5 On 19.12.2024, while travelling through Mathura, the complainant developed abdominal pain and was taken to RR Hospital, Mathura, where she was administered a hormone injection. In the evening, while at Barista Coffee House, Mathura, her water broke and she delivered the foetus in the washroom. The accused allegedly locked the washroom from inside, silenced her cries, and disposed of the foetus and placenta by flushing them.

2.6 Thereafter, the accused took her back to RR Hospital, kept her with him for four days, withheld her phone for two days, and repeatedly promised marriage. On 22.12.2024, due to continued pain and lack of support, she tried to leave but the accused allegedly blocked her calls and did not come to her aid.

2.7 On 23.12.2024, the complainant returned to Delhi on her own, consulted a gynaecologist, and went to her family who refused to accept her. She then approached the accused's mother for help, but was refused. The accused stopped taking her calls and did not meet her.

2.8 On 25.12.2024, the complainant called police helpline and approached PS Anand Parbat, where her statement was recorded and the aforesaid FIR was registered.

3. In the aforesaid backdrop, I have heard the rival contentions of the parties and perused the case file.

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

4.1 That the Applicant has been falsely implicated in the present case despite there being no cogent evidence against him. He was arrested on 28.12.2024 and has been in continuous judicial custody since then. The



Applicant has fully cooperated with the investigating authorities, appeared whenever called, and complied with all legal procedures without obstruction.

4.2 That one of the allegations in the chargesheet is that the Applicant is liable under Section 313 IPC for allegedly causing the termination of the prosecutrix's pregnancy without her consent. This charge proceeds on a fundamentally flawed and unsubstantiated presumption that the termination was "induced" by the Applicant, ignoring documentary evidence to the contrary.

4.3 That the WhatsApp messages exchanged between the Applicant and the prosecutrix on 15.10.2024 and 16.10.2024 clearly establish that it was the prosecutrix herself who independently decided to undergo a Medical Termination of Pregnancy (MTP). She booked clinics in Patel Nagar and GBT Nagar, informed the Applicant, and explicitly stated that he should not stress, thereby exercising full control, independently initiating and coordinating the procedure without any inducement, pressure, or coercion from the Applicant.

4.4 That no medical examination or diagnostic test was conducted to ascertain the health, viability, or development of the foetus on the date of the alleged termination. On the morning of the procedure, the prosecutrix was given drugs by the hospital to prevent premature delivery. In the absence of medical records or foetal viability reports, it is equally probable that the termination could have been a natural miscarriage or spontaneous abortion, a medically recognized occurrence, particularly during the early stages of pregnancy.

4.5 That the prosecutrix, being a qualified and practicing paramedical



professional, was fully aware of her options and consequences. She researched medical centres, selected the clinic of her choice, and communicated the decision to the Applicant. The contemporaneous WhatsApp chats directly refute the allegation, affirming her voluntary and independent decision-making regarding the MTP. Thus, the very foundation of the charge under Section 313 IPC is vitiated by a fatal presumption and renders the allegation inherently weak.

4.6 That the allegations pertaining to a purported false promise to marry are wholly untenable and unsustainable in view of the admitted non-exclusive nature of the relationship between the parties. It is settled law that to constitute an offence under Section 376 IPC, the promise must be shown to have been false from inception and made with malafide intent to deceive. The FIR and statement under Section 164 CrPC, even if taken at face value, demonstrate that there was a consensual relationship between the Applicant and the prosecutrix which continued over a period of time.

4.7 Moreover, There is nothing to suggest that the promise was false from inception, and mere subsequent breach of promise cannot constitute rape. The prosecutrix is a major, well-educated woman, fully capable of understanding the consequences of her actions, who willingly maintained the relationship for several months. Reliance is placed on ***Pramod Suryabhan Pawar v. State of Maharashtra (2019) 9 SCC 608***, where the Hon'ble Supreme Court held that consensual physical relations between adults, absent proof of malafide intent at inception, do not attract Section 376 IPC.

4.8 That the investigation qua the Applicant stands conclusively completed, and nothing further remains to be investigated. The prosecution



has already filed the Final Report/Chargesheet before the Ld. Trial Court on 17.02.2025, thereby crystallizing the allegations against the Applicant. No further custodial interrogation is required, and his continued incarceration would serve no purpose except to subject him to pre-trial punishment in violation of Article 21 of the Constitution of India.

4.9 That the prosecution has cited 40 witnesses in the final report and recorded their statements regarding the travel, lodging of the Applicant and the prosecutrix, and doctors' statements. There is thus no possibility of the Applicant tampering with evidence, influencing witnesses, or obstructing justice. The FSL reports, though awaited, pertain only to expert opinion on digital evidence and do not affect the finality of investigation qua the Applicant.

4.10 That the Applicant is a first-time offender with no prior criminal antecedents, gainfully employed, and has deep roots in society. He undertakes to abide by any condition imposed by this Hon'ble Court, including residing away from the complainant's locality, not contacting witnesses, and appearing before the Trial Court on every date of hearing.

4.11 That the trial is likely to take considerable time as multiple witnesses remain to be examined and the Ld. Trial Court is overburdened. Continued detention would result in indefinite incarceration of an un-convicted person. Reliance is placed on ***Sanjay Chandra v. CBI [(2012) 1 SCC 40]*** and ***Dataram Singh v. State of U.P. [(2018) 3 SCC 22]***.

4.12 That considering the totality of circumstances including completion of investigation, filing of chargesheet, consensual nature of the relationship, absence of malafide intent, prolonged incarceration, lack of necessity for further custodial interrogation, and the Applicant's willingness to comply



with all conditions no purpose would be served by keeping the Applicant behind bars, and he is entitled to be enlarged on regular bail pending trial.

5. Opposing the submissions, the learned APP submits that the applicant is not entitled to relief as there exists a genuine apprehension that, if released on bail, the applicant may threaten or intimidate the prosecution witnesses. It is, therefore, urged that the applicant does not deserve the concession of bail at this stage.

6. 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.

7. *Prima facie* the allegation of a false promise to marry, arises out the relationship which was consensual and continued for a long time. To constitute rape under Section 376 IPC, it must be shown that the promise to marry was false from the beginning and made with dishonest intent. The prosecutrix, an educated adult, voluntarily engaged in the relationship, and mere breach of a promise does not amount to rape.

8. One of the charges against the Applicant is under Section 313 IPC, alleging that he caused the termination of the prosecutrix's pregnancy without her consent. However, WhatsApp messages show that the prosecutrix herself independently decided to undergo a medical termination of pregnancy. She researched clinics, made bookings, and informed the applicant, indicating that there was seemingly no inducement or coercion from him.

9. There are no medical records or diagnostic tests proving the condition or viability of the foetus, making it equally possible that the termination



could have been a natural miscarriage. The prosecutrix, being a qualified paramedical professional, was fully aware of her options and may have taken the decision independently.

10. The purpose of keeping the accused in custody primarily is to be preventive, not punitive, in order to obviate the possibility of either him influencing, intimidating, or promising in any manner the witnesses so as to depose in his favour, or to tamper with the evidence, or apprehension of his absconding. I am of the view that there is no material to suggest that the Applicant can be a hindrance in a fair trial. Not only have the material witnesses' testimonies been recorded, but even otherwise, there are no criminal antecedents of the Applicant so as to give rise to any apprehension of his absconding the trial.

11. The apprehension expressed by learned counsel for the prosecutrix, that since the FSL report is still awaited the applicant may tamper with the same, is also unfounded and without any material on record to show otherwise, as the said report is beyond the reach of the applicant, since the prosecution has seized the relevant material.

12. The applicant has already remained in custody since 29.12.2024, for more than 8 months. This prolonged pre-trial detention, coupled with the slow progress of proceedings, are contributory factors for bail and further continued incarceration would cause undue hardship to the applicant's family and 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*.

13. There is also no likelihood of the applicant absconding, given that he is a well-settled individual, has deep roots in society and hence not a flight



risk.

14. Considering that the primary purpose of bail is to secure the presence of the accused during trial, coupled with the fact that the applicant poses no risk of absconding, his continued detention at this stage would serve no purpose other than to punish him prior to conviction.

15. As an upshot and taking a wholesome view of the matter, particularly the undertaking given by learned counsel for the applicant and apart from what has been recorded hereinabove, I am of the view that it is a case of bail at this stage.

16. 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.

17. 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.

18. Accordingly, the bail application, along with pending application stands disposed of.

ARUN MONGA, J

SEPTEMBER 18, 2025

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