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IN THE HIGH COURT OF DELHI AT NEW DELHI

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BAIL APPLN. 2229/2025

KUNAL DHINGRA

.....Applicant

Through: Mr. Nikhil Bhardwaj, Adv.

versus

STATE OF NCT OF DELHI

.....Respondent

Through: Ms. Richa Dhawan, APP
for the State.

SI Pinki Jakhar, PS Lajpat
Nagar along with victim
and her mother.

Mr. R.S. Kundu & Mr.
V.K. Gupta, Advs. for
complainant.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

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11.08.2025

1. The present application is filed seeking pre-arrest bail in FIR No. 235/2025 dated 26.05.2025, registered at Police Station Lajpat Nagar, for the offence punishable under Section 376 of the Indian Penal Code, 1860 ('IPC').

2. The FIR was registered on an allegation that the applicant had established sexual relations with the victim on the false promise of marriage. It is alleged that the applicant and the prosecutrix used to study in the same school. After befriending each other, the applicant asked the prosecutrix to marry him on 02.03.2021. On the refusal of the prosecutrix, the applicant insisted that he loved the prosecutrix and established physical relations with her on multiple occasions on the pretext of marriage. Allegedly, the family members of the applicant and the

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prosecutrix also finalised the marriage between the parties, however, the applicant subsequently refused to marry the prosecutrix. It is alleged that the applicant also threatened to circulate the intimate photos and videos of the prosecutrix on social media.

3. It is argued on behalf of the applicant that the relationship between the applicant and the prosecutrix was consensual in nature. It is submitted that the prosecutrix was aware that the family members of the applicant were opposed to their marriage, despite which, she continued to engage in sexual relations with the applicant over the long duration of their relationship.

4. *Per contra*, the learned Additional Public Prosecutor and the counsel for the complainant opposed the grant of bail to the applicant on account of the gravity of the alleged offences.

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

6. While determining the parameters in granting pre-arrest bail, the Hon'ble Supreme Court in ***Siddharam Satlingappa Mhetre v. State of Maharashtra : (2011) 1 SCC 694*** held as under:

“112.

(i) *The nature and gravity of the accusation and the exact role of the accused must be properly comprehended before arrest is made;*

(ii) *The antecedents of the applicant including the fact as to whether the accused has previously undergone imprisonment on conviction by a court in respect of any cognizable offence;*

(iii) *The possibility of the applicant to flee from justice;*

(iv) *The possibility of the accused's likelihood to repeat similar or other offences;*

(v) *Where the accusations have been made only with the object of injuring or humiliating the applicant by arresting*



him or her; (vi) *Impact of grant of anticipatory bail particularly in cases of large magnitude affecting a very large number of people;*

(vii) *The courts must evaluate the entire available material against the accused very carefully. The court must also clearly comprehend the exact role of the accused in the case. The cases in which the accused is implicated with the help of Sections 34 and 149 of the Penal Code, 1860 the court should consider with even greater care and caution because over implication in the cases is a matter of common knowledge and concern;*

(viii) *While considering the prayer for grant of anticipatory bail, a balance has to be struck between two factors, namely, no prejudice should be caused to the free, fair and full investigation and there should be prevention of harassment, humiliation and unjustified detention of the accused;*

(ix) *The court to consider reasonable apprehension of tampering of the witness or apprehension of threat to the complainant;*

(x) *Frivolity in prosecution should always be considered and it is only the element of genuineness that shall have to be considered in the matter of grant of bail and in the event of there being some doubt as to the genuineness of the prosecution, in the normal course of events, the accused is entitled to an order of bail.”*

7. False allegations of sexual misconduct and coercion not only tarnish the reputation of the accused but also undermine the credibility of genuine cases. Hence, it is imperative for the Court to exercise utmost diligence in evaluating the *prima facie* allegations against the accused in each case, especially when issues of consent and intent are contentious.

8. It is the case of the prosecution that the applicant established sexual relations with the prosecutrix on the false pretext of marriage, and subsequently, he refused to marry her.

9. It is pertinent to note that the complaint was given to police on 26.05.2025, even though, according to the prosecutrix,



she met the applicant on 21.03.2025, when they established sexual relations for the last time. The Hon'ble Apex Court, in the case of **Meharaj Singh (L/Nk.) v. State of U.P. : (1994) 5 SCC 188**, held as under:

“12. ...Delay in lodging the FIR often results in embellishment, which is a creature of an afterthought. On account of delay, the FIR not only gets bereft of the advantage of spontaneity, danger also creeps in of the introduction of a coloured version or exaggerated story...”

10. While the credibility of any explanation for the delay will be seen during the course of the trial, however, the same casts a doubt as to the veracity of the case.

11. Moreover, it is important to note that it is a complainant's case herself that the applicant had told her that his family is not happy with the relationship and he cannot go against their wishes. The Hon'ble Apex Court in **Pramod Suryabhan Pawar v. The State of Maharashtra & Anr. : (2019) 9 SCC 608**, has summarised the 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.”

12. 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 such



a promise. Mere breach of a promise to marry at a belated stage after significant time has elapsed cannot be termed as a false promise.

13. In the present case, the parties were admittedly in a relationship for close to four years and even as per the complaint, the applicant had met the family of the victim for the purpose of marriage. As per the allegations, the parties also had a ceremony in the presence of the family members in regard to the wedding way back on 11.02.2024.

14. Marriage not taking place after the arrangements are made in some circumstances is stigmatic, specially for women. The same, however, cannot be called intentional since some amount of stigma is also involved for the family of the man.

15. Whether the consent of the prosecutrix was vitiated by misconception of fact arising out of promise to marry cannot be established at this stage, and the same would be a matter of trial.

16. It is pertinent to note that the applicant was granted interim protection by this Court by order dated 20.06.2025, subject to him furnishing an undertaking that he will not misuse any intimate photos or videos of the prosecutrix. The applicant was also directed to cooperate with the investigation and to surrender any of the videos or images of the prosecutrix in his possession. It is stated that the applicant has since joined the investigation.

17. It is not in doubt that an order for grant of pre-arrest bail cannot be passed in a routine manner so as to allow the accused to use the same as a shield. At the same time, it cannot be denied that great amount of humiliation and disgrace is attached with the arrest. In cases where the accused has joined investigation, he is



cooperating with the Investigating Agency and is not likely to abscond, the custodial interrogation should be avoided.

18. Appropriate conditions can be imposed to allay any apprehensions of the applicant misusing the liberty or tampering with evidence.

19. In view of the above, in the event of arrest, 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 concerned SHO, on the following conditions:

- a. The applicant shall join and cooperate with the investigation, if required, as and when directed by the IO;
- b. The applicant shall not contact the prosecutrix or her family member and he shall not misuse the intimate photos or videos of the prosecutrix in any manner whatsoever ;
- c. The applicant shall not leave the country without the prior permission of the learned Trial Court;
- d. 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;
- e. The applicant shall appear before the learned Trial Court as and when directed;
- f. The applicant shall provide the address where he would be residing and shall not change the address without informing the concerned IO/SHO;
- g. The applicant shall give his mobile number to the concerned IO/SHO and shall keep his mobile phone



switched on at all times.

20. In the event of there being any violation of the stipulated conditions, it would be open to the State to seek redressal by filing an application seeking cancellation of the bail.

21. It is clarified that the 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 should not be taken, as an expression of opinion, on the merits of the case.

The present bail application is allowed in the aforesaid terms.

AMIT MAHAJAN, J

AUGUST 11, 2025

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