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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 4807/2024**

VISHAL SINGH

.....Petitioner

Through: Mr. Shivender Singh, Mr. AK Jha,
Mr. SN Shukla, Advs.

Versus

STATE GOVT. OF NCT OF DELHI

.....Respondent

Through: Mr. Yudhvir Singh Chauhan, APP
SI Kajal Tyagi, PS Paharganj
Mr. Himanshu A Gupta, Mr. Siddharth Barua, Ms.
Navneet Kaur, Advs.

CORAM:
HON'BLE MR. JUSTICE JASMEET SINGH
ORDER
03.02.2025

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1. This is a petition seeking bail in the FIR No. 564/2024 dated 01.10.2024 registered at PS Paharganj under Sections 69 of BNS, 2023.
2. As per the FIR, it is stated that the petitioner enticed the complainant with promise to marry and established physical relationships with her on 05.07.2024.
3. It is further stated that subsequently, the complainant saw his Adhaar Card and realised that the petitioner's name is Vishal Singh S/o Durga Prasad and belongs to Jatav caste.
4. The complainant states that if the petitioner would have informed the complainant regarding his caste, the complainant would have never



agreed to have physical relationship with the petitioner as she could not have married him. Hence, the FIR.

5. After completion of investigation, a chargesheet has been filed under section 69 and 79 of BNS, 2023 against the petitioner.
6. Learned counsel for the petitioner states that the present FIR is lodged only to settle personal scores. He further states that the FIR is lodged after a delay of 3 months without providing any explanation to this effect.
7. Mr. Gupta, learned counsel appears on behalf of the prosecutrix and opposes the grant of bail. He states that as the petitioner was not responding to the calls of the prosecutrix only then she went to the police and hence the delay in F.I.R.
8. I have learned counsel for the parties and perused the material available on record.
9. To grant bail, the Court is required to see the severity of the offence alleged and the *prima facie* involvement of the accused. The Court while considering bail application, cannot conduct a mini trial and appreciate the evidence which is required to be done by the learned Trial Court at an appropriate stage.
10. On perusal of the facts, the petitioner at the time of incident was 26 years of age and the complainant/prosecutrix was 27 years of age. It is pertinent to note that both the petitioner and the complainant are adults and of consenting age. The Hon'ble Supreme Court in ***Pramod Suryabhan Pawar v. State of Maharashtra : (2019) 9 SCC 608*** has observed 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.”

11. *Prima facie*, it seems that the physical relationship was consensual as both parties were consenting adults on the date of the incident. The incident as alleged by the complainant is of dated 05.07.2024 and the FIR is lodged after a delay of more than 3 months. The fact whether the petitioner established physical relationships with the complainant on the pretext of marriage and by concealing his caste are the issues which can only be decided during trial after leading evidence. Also the fact that the petitioner was not responding to the calls of the prosecutrix is a question which shall be proved/disproved during trial.
12. The petitioner has been in custody for a period of 3 months 13 days and has no other criminal case pending. There is a presumption of innocence in his favour, till proved otherwise.
13. For the said reasons, I am inclined to allow the present petition and the petitioner is directed to be released on bail subject to the following terms and conditions:-
 - a. The petitioner shall furnish a personal bond in the sum



of Rs 10,000 (Rupees ten thousand only) each with 1 surety in the like amount, to the satisfaction of the concerned trial court;

- b. The petitioner shall not leave the country without the permission of the concerned court and if the petitioner has a passport, he shall surrender the same to the concerned trial court;
- c. The petitioner shall furnish to the IO concerned the cell phone number on which the petitioner may be contacted at any time and shall ensure that the number is kept active and switched on at all times;
- d. The petitioner will furnish his permanent address to the concerned IO and in case he changes his address, he will inform the IO concerned;
- e. The petitioner shall not indulge in any act or omission that is unlawful, illegal or that would prejudice the proceedings in pending cases, if any;
- f. The petitioner shall appear in Court on every date of hearing unless exempted;
- g. The petitioner shall not communicate with, or come into contact with the complainant or any of the prosecution witnesses, or tamper with the evidence of the case.

- 14. Nothing stated hereinabove shall tantamount to an expression of opinion on the merits of the case.
- 15. A copy of this order be communicated to the concerned jail authorities for necessary compliance.



16. The present bail application is disposed of in the aforesaid terms.

FEBRUARY 3, 2025 / (MS)

JASMEET SINGH, J