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**(2025) 12 DEL CK 0018**

**Delhi HC**

**Case No:** Bail Application No. 3641 Of 2025

Ankush Kumar Mahato

APPELLANT

Vs

State Govt Of Nct Of Delhi

RESPONDENT

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**Date of Decision:** Dec. 3, 2025

**Acts Referred:**

- Bharatiya Nyaya Sanhita, 2023- Section 64(1), 89, 69, 123, 351(2)
- Indian Penal Code, 1860- Section 375

**Hon'ble Judges:** Vikas Mahajan, J

**Bench:** Single Bench

**Advocate:** Sonia Mathur, Nachiketa Vajpayee, Pawan Kumar Dabas, Nikhil Chandra Jaiswal, Shubhi Bhardwaj, Manasi Sridhar, Safeena Khan, Vanshika Mudgil, Ajay Vikram Singh, Aagam Jain, Bal Kishan

**Final Decision:** Allowed

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**Judgement**

Vikas Mahajan, J

**CRL.M.A. 28530/2025 (exemption)**

1. Allowed, subject to all just exceptions.
2. Application stands disposed of.

**BAIL APPLN. 3641/2025**

3. The present petition has been filed seeking grant of anticipatory bail in connection with FIR No. 498/2025 under Sections 64(1)/123/89/69/351(2) of BNS, registered at PS Paharganj, District Central, Delhi.

4. The case of the prosecution as borne out from the FIR is that the complainant met the petitioner/accused (hereinafter referred to as "petitioner") on a dating app namely, "OK Cupid" on 08.08.2021. They shared their information and eventually started talking on Snapchat. Thereafter, on 17.10.2021, they met in Hotel Toronto where the petitioner allegedly made the complainant consume a spiked drink of vodka. The complainant, as per the FIR states that she fell unconscious and when she woke up, she was naked and found out that the petitioner had committed rape on her.

5. It is further stated in the FIR that the petitioner and the complainant continued meeting even thereafter and engaged in consensual sexual acts on multiple occasions. The said

acts were only consented to because the petitioner had promised to marry the complainant. The petitioner even proposed to marry the complainant with a ring on 17.03.2022 which happened to be the birthday of the complainant.

6. The families of the petitioner met the family of the complainant on 21. 02.2025. However, upon meeting the complainant, the family of the petitioner refused to accept the relationship of the parties. Despite the refusal from the parents of the petitioner, the petitioner and the complainant again had sexual relations on 06.05.2025. However, when the petitioner refused to marry the complainant on the pretext of his family's reluctance to accept their alliance, the present FIR was registered on 30.08.2025.

7. Ms. Sonia Mathur, learned senior counsel appearing for the petitioner submits that the petitioner and the complainant were in a consensual relationship for more than 4 years. The petitioner, with an intention to marry the complainant made his family meet the family of the complainant on three occasions viz., 21.02.2025, 04.05.2025 and 03.08.2025 respectively. Despite repeated attempts at convincing the family of the petitioner, the family did not support their marriage which prima facie makes it a case of a failure to fulfil the promise to marry and not that of a false pretext.

8. She submits that the complainant herself suggested the name of the hotel and asked the petitioner to book the same which can be seen from the WhatsApp chats dated 18.10.2021. She submits that the parties can be seen reminiscing their private moments on 17.10.2021 which in itself demolishes the allegation of rape committed by the petitioner on the complainant on 17. 10.2021.

9. Mr. Ajay Vikram Singh, learned APP appearing for the State submits that the allegations as borne out from the FIR prima facie demonstrates that the petitioner has indulged in sexual relations with the complainant on the pretext of marriage while having no intention to actually marry her. He further submits that as per the allegations in the FIR, the complainant got pregnant some time in 2022 and the petitioner forced her to take an emergency contraceptive to terminate the pregnancy.

10. The complainant who appears in person states that the relationship started more than 4 years ago when she was still immature. The physical relations were always established by the petitioner on the pretext of marriage. She further states that the petitioner did indeed make her consume an emergency contraceptive to terminate the pregnancy in the years 2022.

11. I have heard Ms. Mathur, learned senior counsel appearing on behalf of the petitioner, as well as, the learned APP and the complainant in person.

12. It is not disputed that the complainant and the petitioner met on a dating app, namely "OK Cupid". It is also not in dispute that the petitioner and the complainant were in a relationship for over 04 years. However, the case of the prosecution is that the petitioner had established physical relations with the complainant on the false pretext of marriage.

13. At the same time, it is also a case of the prosecution that the petitioner had indeed promised to marry the complainant in the year 2022 when he gave a ring to the complainant. Even the family of the petitioner met the family of the complainant on 21.02.2025. However, upon meeting the complainant, the family of the petitioner refused to accept the relationship of the parties. Despite such refusal from the parents of the petitioner, the petitioner and the complainant again had physical relations. It is only when the petitioner finally refused on 16.08.2025 to marry the complainant giving the reason of his family's disapproval, that FIR came to be registered on 30. 08.2025.

14. The above factual backdrop of the prosecution case and the long duration of relationship, prima facie indicates the relationship was not based merely on false promise of marriage.

15. It was held by the Hon'ble Supreme Court in *Prithvirajan v. The State Rep by the Inspector of Police & Anr., SLP(Crl.) No. 12663 of 2022* that merely because physical relations were established based on a promise to marry, will not amount to rape. For the offence of rape to be attracted, the following two conditions need to be met:

- i. The accused promised to marry the prosecutrix solely to secure consent for sexual relations with her without having any intention to fulfil his promise to marry from the very first instance;
- ii. The prosecutrix gave her consent for sexual relations by being directly influenced by such false promise of marriage.

16. In *Pramod Suryabhan Pawar v. State of Maharashtra &Anr.*, (2019) 9 SCC 608, the Hon'ble Supreme Court laid down a clear distinction between a breach of promise and a false promise. The breach of a promise cannot be equated to a false promise, and it may not constitute an offence of rape. Para 16 of the judgment reads thus:

*"16. Where the promise to marry is false and the intention of the maker at the time of making the promise itself was not to abide by it but to deceive the woman to convince her to engage in sexual relations, there is a "misconception of fact" that vitiates the woman's "consent". On the other hand, a breach of a promise cannot be said to be a false promise. To establish a false promise, the maker of the promise should have had no intention of upholding his word at the time of giving it. The "consent" of a woman under Section 375 is vitiated on the ground of a "misconception of fact" where such misconception was the basis for her choosing to engage in the said act. In Deepak Gulati [Deepak Gulati v. State of Haryana, (2013) 7 SCC 675 : (2013) 3 SCC (Cri) 660] this Court observed : (SCC pp. 682-84, paras 21 & 24)*

***"21. ... There is a distinction between the mere breach of a promise, and not fulfilling a false promise. Thus, the court must examine whether there was made, at an early stage a false promise of marriage by the accused; and whether the consent involved was given after wholly understanding the nature and consequences of sexual indulgence. There may be a case where the prosecutrix agrees to have sexual intercourse on account of her love and passion for the accused, and not solely on account of misrepresentation made to her by the accused, or where an accused on account of circumstances which he could not have foreseen, or which were beyond his control, was unable to marry her, despite having every intention to do so. Such cases must be treated differently."***

(emphasis supplied)

17. Likewise, in *Mahesh Damu Khare v. State of Maharashtra*, (2024) 11 SCC 398, the Hon'ble Supreme Court observed as under:

*"34. In our opinion, the longer the duration of the physical relationship between the partners without protest and insistence by the female partner for marriage would be indicative of a consensual relationship rather than a relationship based on false promise of marriage by the male partner and thus, based on misconception of fact."*

18. The question whether the petitioner had made a false promise to marry to the prosecutrix and she was deceived by such promise; or it is a case of breach of promise is a matter to be decided at the stage of trial, for which no custodial interrogation is required.

19. Even otherwise, the petitioner has joined investigation. In the status report filed by the State, it is mentioned that the petitioner had joined investigation at least on three occasions i.e. 23.09.2025, 03.10.2025 and 03.10.2025, when he was granted interim protection by this court on 22. 09.2025. The petitioner has undertaken to further join investigation as and when asked to do so.

20. On an overall conceptus of the facts and circumstances of the case, the petitioner has made out a case for grant of anticipatory bail. Accordingly, it is directed that the petitioner shall be released on bail in the event of his arrest in connection with FIR No. 498/2025 under Section 64(1)/123/89/69/351(2) of BNS at PS Paharganj, District Central, Delhi subject to his furnishing personal bond in the sum of Rs. 25,000/- and a surety bond of the like amount to the satisfaction of the Investigating Officer/ Arresting Officer / SHO and further subject to the following conditions:

(i) Petitioner shall join investigation as and when directed by the I.O concerned.

(ii) Petitioner shall not influence the witnesses in any manner or try to contact the complainant or tamper with evidence.

21. It is made clear that the observations made herein above are only for the purpose of considering the bail application and the same shall not be deemed to be an expression of opinion on the merits of the case.

22. Dasti under signatures of the Court Master.

23. The judgment be uploaded on the website of this Court.