



2025:DHC:6772



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

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*Date of Decision: 12.08.2025*

+ **BAIL APPLN. 2489/2025**

ATUL TIWARI

.....Petitioner

Through: Mr. Sundram Ojha and Mr. Abhishek  
Ranjan, Advocates.

versus

STATE NCT OF DELHI

.....Respondent

Through: Mr. Nawal Kishore Jha, APP for State  
with IO/SI Shruti.  
Mr. K.P. Singh, Advocate for  
prosecutrix.

**CORAM: JUSTICE GIRISH KATHPALIA**

**J U D G M E N T (ORAL)**

1. The accused/applicant seeks regular bail in case FIR No. 350/2025 of PS Karol Bagh for offence under Section 376(2)(n)/328/312/313/506/34 IPC. I have heard learned counsel for accused/applicant and learned APP for State as well as learned counsel for prosecutrix.

2. Broadly speaking, allegation against the accused/applicant is that he developed sexual relations with the prosecutrix on the false pretext of getting married with her. The prosecutrix, who is a grown up lady, four years older than the accused/applicant also contended that the accused/applicant clicked her nude pictures and videos.



3. On behalf of accused/applicant, it is contended by learned counsel that the relationship between the prosecutrix and the accused/applicant was clearly a consensual relationship and the prosecutrix being a grown up lady and four years older than the accused/applicant, it is not believable that she would have got carried away with any false promise of marriage before getting sexually involved with the accused/applicant. The accused/applicant is in custody since 11.03.2025 and according to learned counsel for accused/applicant, the trial will take a long time to even commence. Learned counsel for accused/applicant has also referred to the MLC of the prosecutrix, in which she herself gave the history as being involved in consensual intercourse for five years.

4. On behalf of State, the argument advanced is that it being a crime against women, the accused/applicant does not deserve any leniency. Learned APP also submits that the offence against the accused/applicant is a serious one, so he does not deserve bail.

5. Learned counsel for prosecutrix raises only one objection to grant of bail and that objection is some threat received by the prosecutrix from an unknown person on social media. In response to specific query, learned counsel for prosecutrix submits that the alleged threat was received only once and the same was from some unknown person, for which she did not lodge any complaint.

6. In furtherance of last order, the IO submits that the prosecutrix is not joining investigation even after the last date and has not handed over her



mobile phone for investigation. The IO also submits that the accused/applicant had handed over his mobile phone, which has been sent to FSL. However, IO also submits that when she seized the mobile phone of the accused/applicant, the same did not contain any nude picture or video.

7. Some of the vital facts, culled out of the FIR are as follows. The prosecutrix is employed as nursing staff in a hospital. In the year 2020, when she was working in Rajiv Gandhi Hospital, she came in contact with the accused/applicant and they gradually became friends, after one year whereof the accused/applicant proposed her for marriage. The accused/applicant even arranged a video call of the prosecutrix with his parents and they agreed for the marriage. It is thereafter in the year 2021 that for the first time physical relations were established between the accused/applicant and the prosecutrix which happened according to prosecutrix when she was intoxicated. Even thereafter, they repeatedly indulged in sexual relations. The prosecutrix even continued to interact warmly with family of the accused/applicant. The prosecutrix became pregnant but aborted the child because parents of the accused/applicant did not want birth of the child prior to marriage. From 15.02.2025, the accused/applicant stopped taking phone calls of prosecutrix, she lodged a complaint on 04.03.2025.

8. I find substance in the argument of learned counsel for accused/applicant that it is not believable that a grown up lady would repeatedly indulge in sexual relations, gullibly believing his assurance to get married. The prosecutrix had number of opportunities to lodge a complaint against the accused/applicant or at least put an end to their sexual



relationship, but she continued and even interacted with family of the accused/applicant.

9. Of course, the allegation of the prosecutrix that the accused/applicant clicked her nude pictures and videos is a very serious allegation. But as mentioned above, the IO specifically states that when she seized the mobile phone of the accused/applicant, there was no such picture or video. On the other hand, the prosecutrix has not been handing over her mobile phone to the IO, which according to learned counsel for accused/applicant would reflect their purely consensual relationship without any assurance of marriage. As mentioned above, even at the time of her MLC, the prosecutrix gave her history as being involved in consensual intercourse for five years, making no whisper of any intoxicant having been administered to her or any blackmail or previous pregnancy or abortion as alleged in the FIR.

10. Further, as fairly admitted by learned APP on instructions of the IO that there is no evidence at all of any pregnancy or abortion as alleged by prosecutrix. Such unsubstantiated allegation, according to learned counsel for accused/applicant creates reasonable doubt about truthfulness of the complaint.

11. Most importantly, from the side of prosecutrix there is no serious objection to grant of bail. As mentioned above, the only argument advanced on behalf of prosecutrix is that she was threatened once by some unknown person on social media and even in that regard she did not lodge any complaint.



12. To summarize, the overall circumstances *prima facie* show it to be a case of consensual relations between the prosecutrix and the accused/applicant; and there is nothing on record to substantiate the allegation of the prosecutrix about her objectionable photographs/videos clicked by the accused/applicant or her pregnancy and abortion.

13. However, I must add a cautious rider that the above observations are only *prima facie* discussion, keeping in mind the limited purpose of ensuring that liberty of an individual is not curtailed without any material. None of these observations shall be kept in mind by the learned Trial Court at the time of conclusion of the trial.

14. Accordingly, the application is allowed and the accused/applicant is directed to be released on bail subject to his furnishing a personal bond in the sum of Rs.10,000/- with one surety in the like amount to the satisfaction of the Trial Court.

15. Copy of this order be sent to the concerned Jail Superintendent for being immediately conveyed to the accused/applicant.

**GIRISH KATHPALIA  
(JUDGE)**

**AUGUST 12, 2025/ry**