

**IN THE COURT OF SH. ARUL VARMA, ADDL. SESSIONS JUDGE/
SPECIAL JUDGE, ELECTRICITY, COURT NO. 2, CENTRAL, THC**

Bail Application No. 2422/21
FIR No. 282/21
U/s 376/506 IPC
P.S. Civil Lines
State Vs. Sandeep Kumar

21.09.2021

Vide order No. 887/37133-168/Bail Power/Gaz/2021 dated 01.07.2021 issued by Ld. Principal District & Sessions Judge (HQs), Delhi, the undersigned has been authorized to dispose of bail / urgent criminal applications pertaining to the PS Pratap Nagar (Gulabi Bagh), Civil Lines, Roop Nagar, Timarpur, Burari, Subzi Mandi, Bara Hindu Rao, Maurice Nagar, Crime Branch of Central Police District and Wazirabad.

Present application u/s 438 Cr.P.C. has been moved on behalf of applicant Sandeep Kumar for grant of anticipatory bail.

Present: Sh. Balbir Singh, Ld. Addl. PP for State through VC.
Sh. R.P. Singh, Ld. Counsel for applicant through VC.
Ms. Laxmi Raina, Ld. Counsel from DCW for prosecutrix through VC.
IO/WSI Gurdeep Kaur also present through VC.
Prosecutrix also present through VC.

ORDER ON ANTICIPATORY BAIL APPLICATION

1. Vide this order, this Court shall adjudicate upon the anticipatory bail application filed on behalf of the applicant. Arguments were heard *in extenso*, the gist whereof is discussed hereunder.

2. Ld. Counsel for applicant /accused submitted that applicant has been falsely implicated in the present case. He further submitted that it was a consensual relationship between both applicant and complainant. He further submitted that both applicant and complainant were studying in ITI Institute, Nizamuddin. He further submitted that applicant did not commit any offence. He further submitted that both applicant and complainant were in constant touch with each other. He further submitted that applicant is ready and willing to join the investigation as and when required by the IO.
3. *Per contra*, Ld Addl. PP for the State alongwith the IO, assisted by Ld. Counsel for the complainant vehemently opposed the anticipatory bail application as per law. It was submitted that the applicant had forcefully made the physical relationship with the complainant without her consent. It was further submitted that father of the applicant went to house of the complainant, where h he threatened and pressurized her to withdraw her complaint, thus he ought not to be granted bail.
4. Before adverting to the rival contentions of the parties, the facts of the present case, as alleged by the prosecution, are hereby succinctly recapitulated: It was alleged by the complainant one Sandeep (applicant herein) with whom she was in friendship since 2016, had committed sexual assault upon her since 2017 on the

pretext of marriage. She stated that in the year 2017, accused took her to Bonta Park, Civil Lines and forcefully made physical relations with her. She further alleged that on 15.03.2021 accused also took her to hotel at Paharganj where also he committed forceful sexual assault upon her and also threatened here with dire consequences. Thus, the present FIR came to be registered.

5. At this juncture, it would be apposite refer to the Judgments relied on by the accused. In ***Sonu @ Subhash Kumar Vs. State of Uttar Pradesh & Ors., Criminal Appeal No. 233/2021 decided by Hon'ble Suprem Court on 01.03.2021*** wherein it was observed as hereunder :

“On the basis of the rival submissions and with the assistance of the counsel, we have perused the FIR. The FIR specifically records that the second respondent had developed a friendship with the appellant and that he had assured that he would marry her. The FIR then records that the appellant and the second respondent developed a physical relationship which spread over a period of one and a half years, during the course of which the second respondent conversed with the parents and sister of the appellant. It has been alleged in the FIR that the parents of the appellant were agreeable to the couple getting married. As a matter of fact, the appellant returned to his home town at Jhansi on 5 January 2018 when he had made a phone call to her stating that she should come and visit him so that they can get married. On travelling to Jhansi at the behest of the appellant, the second respondent was informed by the father of the appellant that the appellant did not wish to marry her. The contents of the statement under [Section 164](#) of CrPC also indicate

that the second respondent had “voluntarily developed relationship of husband-wife with him”. The second respondent has then stated that “now, he and his family members are refusing to marry with me”. The second respondent has further stated that “my sole grievance is that Sonu is refusing to marry with me”.⁸ The contents of the FIR as well as the statement under [Section 164](#) of CrPC leave no manner of doubt that, on the basis of the allegations as they stand, three important features emerge:

(i) The relationship between the appellant and the second respondent was of a consensual nature;

(ii) The parties were in the relationship for about a period of one and a half years; and

(iii) Subsequently, the appellant had expressed a disinclination to marry the second respondent which led to the registration of the FIR.⁹ In *Pramod Suryabhan Pawar (supra)*, while dealing with a similar situation, the principles of law which must govern a situation like the present were enunciated in the following observations:

“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...”¹⁰ Further, the Court has observed:

“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 Bearing in mind the tests which have been enunciated in the above decision, we are of the view that even assuming that all the allegations in the FIR are correct for the purposes of considering the application for quashing under [Section 482](#) of CrPC, no offence has been established. There is no allegation to the effect that the promise to marry given to the second respondent was false at the inception. On the contrary, it would appear from the contents of the FIR that there was a subsequent refusal on the part of the appellant to marry the second respondent which gave rise to the registration of the FIR. On these facts, we are of the view that the High Court was in error in declining to entertain the petition under [Section 482](#) of CrPC on the basis that it was only the evidence at trial which would lead to a determination as to whether an offence was established.

6. The above judgment basically allude to the proposition that inducement to have a physical relationship by promising marriage, and the victim falling prey to such inducement may be understandable in the context of the moment. A promise of marriage cannot be held out as an inducement for engaging in sex over a protracted and indefinite period of time.

7. Adverting to the rival contentions of both sides, a perusal of the record reveals that prima facie the complainant and the accused knew each other, and were in a consensual relationship. The prosecutrix is a person who has attained the age of majority. Further, as per report of the IO, applicant and prosecutrix were constantly talking with each other for one year.
8. Accordingly, keeping in mind the facts and circumstances of this case, the fact that the applicant and prosecutrix were in constant touch with each other coupled with the fact that applicant is ready and willing to join the investigation, this Court deems it fit to grant anticipatory bail to the applicant Sandeep Kumar on the following conditions:-
 - i. In the event of arrest, applicant shall be released on anticipatory bail on furnishing a personal bond in a sum of Rs. 10,000/- with one surety of the like amount to the satisfaction of the SHO/IO.
 - ii. The applicant is directed not to leave the country without prior permission of the Court.
 - iii. The applicant shall join the investigation as and when called for and shall handover the mobile phone to the IO.
 - iv. The applicant is directed to give all his mobile numbers to the Investigating Officer and keep them operational at all times.
 - v. The applicant shall give his address to the IO and if he changes the address he shall intimate the same to the IO.

- vi. The applicant shall not, directly or indirectly, contact or pressurize, complainant or any other witness. In case any complaint is received from the complainant that the applicant is trying to contact him/her and trying to put pressure on him/her then the protection granted by this Court shall stand cancelled.
9. Needless to say, the abovementioned observations are predicated solely on the facts as alleged, and brought forth at this juncture, and are not findings on merits, and would also have no bearing on the merits of the case. With these conditions, and observations, the anticipatory bail application stands disposed off.
10. Copy of the order be uploaded on the website of the District Court.

(Arul Varma)
ASJ/Special Judge, Electricity
Court No. 02, Central
Tis Hazari/Delhi/21.09.2021

Bail Application No.2448/21
FIR No. 438/21
P.S. Burari
U/s 498A/406/34 IPC
State Vs. Smt. Manisha

21.09.2021

Vide order No. 887/37133-168/Bail Power/Gaz/2021 dated 01.07.2021 issued by Ld. Principal District & Sessions Judge (HQs), Delhi, the undersigned has been authorized to dispose of bail / urgent criminal applications pertaining to the PS Pratap Nagar (Gulabi Bagh), Civil Lines, Roop Nagar, Timarpur, Burari, Subzi Mandi, Bara Hindu Rao, Maurice Nagar, Crime Branch of Central Police District and Wazirabad.

This is an application moved for accused/applicant Smt. Manisha under Section 438 Cr.P.C., for grant of anticipatory bail.

Present: Sh. Balbir Singh, Ld. Addl. PP for State through VC.
Sh.Basant Kr. Singh, Ld. Counsel for applicant through VC.

Let reply of the application be called from IO/SHO for
NDOH.

List on 23.09.2021.

Copy of this order be uploaded on the website.

(Arul Varma)
ASJ/Special Judge, Electricity
Court No. 02, Central
Tis Hazari/Delhi/21.09.2021

Bail Application No.2450/21
FIR No. 438/21
P.S. Burari
U/s 498A/406/34 IPC
State Vs. Mool Chand

21.09.2021

Vide order No. 887/37133-168/Bail Power/Gaz/2021 dated 01.07.2021 issued by Ld. Principal District & Sessions Judge (HQs), Delhi, the undersigned has been authorized to dispose of bail / urgent criminal applications pertaining to the PS Pratap Nagar (Gulabi Bagh), Civil Lines, Roop Nagar, Timarpur, Burari, Subzi Mandi, Bara Hindu Rao, Maurice Nagar, Crime Branch of Central Police District and Wazirabad.

This is an application moved for accused/applicant Mool Chand under Section 438 Cr.P.C., for grant of anticipatory bail.

Present: Sh. Balbir Singh, Ld. Addl. PP for State through VC.
Sh.Basant Kr. Singh, Ld. Counsel for applicant through VC.

Let reply of the application be called from IO/SHO for
NDOH.

List on 23.09.2021.

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(Arul Varma)
ASJ/Special Judge, Electricity
Court No. 02, Central
Tis Hazari/Delhi/21.09.2021

Bail Application No.2449/21
FIR No. 438/21
P.S. Burari
U/s 498A/406/34 IPC
State Vs. Smt. Guddi

21.09.2021

Vide order No. 887/37133-168/Bail Power/Gaz/2021 dated 01.07.2021 issued by Ld. Principal District & Sessions Judge (HQs), Delhi, the undersigned has been authorized to dispose of bail / urgent criminal applications pertaining to the PS Pratap Nagar (Gulabi Bagh), Civil Lines, Roop Nagar, Timarpur, Burari, Subzi Mandi, Bara Hindu Rao, Maurice Nagar, Crime Branch of Central Police District and Wazirabad.

This is an application moved for accused/applicant Smt. Guddi under Section 438 Cr.P.C., for grant of anticipatory bail.

Present: Sh. Balbir Singh, Ld. Addl. PP for State through VC.
Sh.Basant Kr. Singh, Ld. Counsel for applicant through VC.

Let reply of the application be called from IO/SHO for
NDOH.

List on 23.09.2021.

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(Arul Varma)
ASJ/Special Judge, Electricity
Court No. 02, Central
Tis Hazari/Delhi/21.09.2021

Bail Application No.2451/21
FIR No. 501/2021
P.S. Subzi Mandi
U/s 307/34 IPC
State Vs. Smt. Seema Rani

21.09.2021

Vide order No. 887/37133-168/Bail Power/Gaz/2021 dated 01.07.2021 issued by Ld. Principal District & Sessions Judge (HQs), Delhi, the undersigned has been authorized to dispose of bail / urgent criminal applications pertaining to the PS Pratap Nagar (Gulabi Bagh), Civil Lines, Roop Nagar, Timarpur, Burari, Subzi Mandi, Bara Hindu Rao, Maurice Nagar, Crime Branch of Central Police District and Wazirabad.

This is an application moved for accused/applicant Seema Rani under Section 438 Cr.P.C., for grant of anticipatory bail.

Present: Sh. Balbir Singh, Ld. Addl. PP for State through VC.
Sh. Pradeep Kadyan , Ld. Counsel for applicant through VC.

The application received in the Court is not legible. It is submitted by ld. Counsel for applicant that he would be filing physically fresh application during the course of the day in the Court.

Let reply of the application be called from IO/SHO for NDOH.

List on 23.09.2021.

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(Arul Varma)
ASJ/Special Judge, Electricity
Court No. 02, Central
Tis Hazari/Delhi/21.09.2021

Bail Application No.2447/21
FIR No. 174/21
P.S. Gulabi Bagh
U/s 392/397/411/120B/34 IPC
State Vs. Prabjot @ Sahib

21.09.2021

Vide order No. 887/37133-168/Bail Power/Gaz/2021 dated 01.07.2021 issued by Ld. Principal District & Sessions Judge (HQs), Delhi, the undersigned has been authorized to dispose of bail / urgent criminal applications pertaining to the PS Pratap Nagar (Gulabi Bagh), Civil Lines, Roop Nagar, Timarpur, Burari, Subzi Mandi, Bara Hindu Rao, Maurice Nagar, Crime Branch of Central Police District and Wazirabad.

This is an application moved for accused/applicant Prabhjot @ Sahib under Section 439 Cr.P.C., for grant of bail.

Present: Sh. Balbir Singh, Ld. Addl. PP for State through VC.
Sh. Nitin Kumar, Ld. Counsel for applicant through VC.

Let reply of the application be called from IO/SHO for NDOH.

List on 23.09.2021.

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(Arul Varma)
ASJ/Special Judge, Electricity
Court No. 02, Central
Tis Hazari/Delhi/21.09.2021

Bail Application No.2281/21
FIR No. 254/21
P.S. Burari
U/s 376 IPC
State Vs. Saurabh Singh Thakur

21.09.2021

Vide order No. 887/37133-168/Bail Power/Gaz/2021 dated 01.07.2021 issued by Ld. Principal District & Sessions Judge (HQs), Delhi, the undersigned has been authorized to dispose of bail / urgent criminal applications pertaining to the PS Pratap Nagar (Gulabi Bagh), Civil Lines, Roop Nagar, Timarpur, Burari, Subzi Mandi, Bara Hindu Rao, Maurice Nagar, Crime Branch of Central Police District and Wazirabad.

This is an application moved for accused/applicant Saurabh Singh Thakur under Section 439 Cr.P.C., for grant of anticipatory bail.

Present: Sh. Balbir Singh, Ld. Addl. PP for State through VC.

IO/SI Satender through VC.

Sh. Anurag Sharma, Ld. Counsel for applicant through VC.

Sh. Sandeep Mishra, Ld. Counsel for complainant through

VC.

TCR is stated to be received.

Due to constant disruption in the internet connection, this Court is constrained to adjourn the matter for physical hearing. Both parties are directed to come physically in the Court tomorrow i.e. on 22.09.2021.

List for arguments on 22.09.2021.

Copy of this order be uploaded on the website.

(Arul Varma)
ASJ/Special Judge, Electricity
Court No. 02, Central
Tis Hazari/Delhi/21.09.2021

Bail Application No.C-795/4245-
FIR No.475/21
P.S. Lahori Gate
U/s 323/377/506/498A/406/34 IPC
State Vs. Mujeeb Ur Rahman

21.09.2021

Pursuant to Order No.569/RG/DHC/2021 dated 19.08.2021 of Hon'ble High Court of Delhi, the matter is taken up through VC.

This is an application moved for accused/applicant Mujeeb Ur Rahman under Section 438 Cr.P.C., for grant of anticipatory bail.

Present: Sh. Balbir Singh, Ld. Addl. PP for State through VC.

None has connected for applicant through VC.

Sh. Firoz Ahmed, Ld. Counsel for complainant with complainant through VC.

IO/SI Narender Singh through VC.

Bail matter is taken up as Sh. Ankit Singla, Ld. Addl. Sessions Judge (FTSC) (RC) (Central) is stated to be on leave today.

Reply of IO is on record.

None has connected through VC for applicant despite repeated calls. It is already 11:30 a.m. In view of the same, list the matter for arguments on 22.09.2021.

Copy of this order be uploaded on the website.

(Arul Varma)
ASJ/Special Judge, Electricity
Court No. 02, Central
Tis Hazari/Delhi/21.09.2021

Bail Application No.C-795/4252
FIR No. Unknown
P.S. Kamla Market
U/s Not Known
State Vs. Mohd. Nafees

21.09.2021

Pursuant to Order No.569/RG/DHC/2021 dated 19.08.2021 of Hon'ble High Court of Delhi, the matter is taken up through VC.

This is an application moved for accused/applicant Mohd. Nafees under Section 438 Cr.P.C., for grant of anticipatory bail.

Present: Sh. Balbir Singh, Ld. Addl. PP for State through VC.

Sh. Hemant Choudhary, Ld.counsel for applicant through VC.

IO/HC Naresh Chand through VC.

Bail matter is taken up as Sh. Ankit Singla, Ld. Addl. Sessions Judge (FTSC) (RC) (Central) is stated to be on leave today.

Reply of IO received.

At request, list for arguments on 22.09.2021.

(Arul Varma)
ASJ/Special Judge, Electricity
Court No. 02, Central
Tis Hazari/Delhi/21.09.2021

Bail Application No.C-795/4246
FIR No.266/21
P.S. Karol Bagh
U/s 420/120B IPC
State Vs. Sudarshan Singh Aswal

21.09.2021

Pursuant to Order No.569/RG/DHC/2021 dated 19.08.2021 of Hon'ble High Court of Delhi, the matter is taken up through VC.

This is an application moved for accused/applicant Sudarshan Singh Aswal under Section 439 Cr.P.C., for grant of bail.

Present: Sh. Balbir Singh, Ld. Addl. PP for State through VC.

Sh. Arun Goel, Ld. Counsel for accused/applicant through VC.

IO/through VC.

Bail matter is taken up as Sh. Ankit Singla, Ld. Addl. Sessions Judge (FTSC) (RC) (Central) is stated to be on leave today.

Reply of IO received.

At request, list for arguments on 22.09.2021.

(Arul Varma)
ASJ/Special Judge, Electricity
Court No. 02, Central
Tis Hazari/Delhi/21.09.2021

Bail Application No.4163/21
FIR No.3999/16
P.S. Darya Ganj
U/s 420/120-B IPC
State Vs. Ahmed Nawaz @ Sobi

21.09.2021

Pursuant to Order No.569/RG/DHC/2021 dated 19.08.2021 of Hon'ble High Court of Delhi, the matter is taken up through VC.

This is an application moved for accused/applicant Ahmed Nawaz under Section 438 Cr.P.C., for grant of anticipatory bail.

Present: Sh. Balbir Singh, Ld. Addl. PP for State through VC.

Sh. M.A. Rehman, ld. Counsel for applicant through VC.

IO/SI Satish Kumar through VC.

Bail matter is taken up as Sh. Ankit Singla, Ld. Addl. Sessions Judge (FTSC) (RC) (Central) is stated to be on leave today.

Reply of IO is on record.

At request, list for arguments on 23.09.2021.

(Arul Varma)
ASJ/Special Judge, Electricity
Court No. 02, Central
Tis Hazari/Delhi/21.09.2021