

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

Bail Application No. 2294/21

FIR No. Not Known

U/s Not Known

P.S. Wazirabad

State Vs. Dhruv Sehgal

02.09.2021

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.

Fresh application u/s 438 Cr.P.C. has been moved on behalf of applicant / accused Dhruv Sehgal for grant of anticipatory bail.

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

Sh. Sharad Malhotra, Ld. Counsel for applicant through VC.

Let report of IO be called for 03.09.2021.

Order be uploaded on the website of Delhi District Courts.

**(Arul Varma)
ASJ/Special Judge, Electricity
Court No. 02, Central
Tis Hazari/Delhi/02.09.2021**

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

Bail Application No. 2174/21
FIR No. 274/21
U/s 392/34 IPC
P.S. Subzi Mandi
State Vs. Akram Ahmed

02.09.2021

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 439 Cr.P.C. has been moved on behalf of applicant/accused Akram Ahmed for grant of bail.

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

Sh. Dushyant Singh, Ld. LAC for applicant.

IO/ASI Rakesh is present.

Ld. Counsel for applicant seeks adjournment as he is not well.

Granted.

Put up for arguments on 06.09.2021.

Order be uploaded on the website of Delhi District Courts.

(Arul Varma)
ASJ/Special Judge, Electricity
Court No. 02, Central
Tis Hazari/Delhi/02.09.2021

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

Bail Application No. 2229/21

FIR No. 566/2018

U/s 420/120B/34 IPC

P.S. Burari

State Vs. Amit Tyagi

02.09.2021

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/accused Amit Tyagi for grant of anticipatory bail.

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

Sh. Hans Raj Singh, Ld. Counsel for applicant.

IO/SI Satender present through VC.

Report of IO received.

Let TCR be requisitioned for 07.09.2021.

Order be uploaded on the website of Delhi District Courts.

**(Arul Varma)
ASJ/Special Judge, Electricity
Court No. 02, Central
Tis Hazari/Delhi/02.09.2021**

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

Bail Application No. 2121/21
FIR No. 204/21
U/s 452/308/323/506/34 IPC
P.S. Timarpur
State Vs. Rahul Kumar

02.09.2021

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

Present: Sh. Balbir Singh, Ld. Addl. PP for State.
Sh. S.P. Sharma, Ld. Counsel for applicant.
IO/ASI Bhushan present.

In the present matter, previous anticipatory bail application of the applicant / accused was dismissed vide order dated 03.08.2021. Today, Ld. Counsel for applicant has agitated the present application on same grounds. The application has been opposed by Ld. Addl. PP for the State on the ground that there have been no change in circumstances since dismissal of the previous anticipatory bail application.

Submissions heard.

Ld. Counsel has shown a video to contend that applicant did not use any danda. Court has perused the video and it is only a clip of merely ten seconds and thus it is apparent that the video does not show the incident in

Contd.....

entirety. Further Ld. Counsel for applicant could not demonstrate before the Court about any change in circumstances since dismissal of previous anticipatory bail application of the applicant on 03.08.2021.

Under these circumstances, this anticipatory bail application is hereby dismissed.

Order be uploaded on the website of Delhi District Courts.

(Arul Varma)
ASJ/Special Judge, Electricity
Court No. 02, Central
Tis Hazari/Delhi/02.09.2021

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

Bail Application No. 2292/21

FIR No. 180/21

U/s 356/379./34 IPC

P.S. Bara Hindu Rao

State Vs. Mohd. Azhar

02.09.2021

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 through video conferencing mode.

Fresh application u/s 439 Cr.P.C. has been moved on behalf of applicant/accused Mohd. Azhar for grant of regular bail.

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

Sh. Mohd. Khadim Khan, Ld. Counsel for applicant.

Let report of IO be called for 07.09.2021.

Order be uploaded on the website of Delhi District Courts.

**(Arul Varma)
ASJ/Special Judge, Electricity
Court No. 02, Central
Tis Hazari/Delhi/02.09.2021**

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

Bail Application No. 2295/21

FIR No. 239/21

U/s 323/341/308/34 IPC

P.S. Bara Hindu Rao

State Vs. Arun Kashyap

02.09.2021

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 through video conferencing mode.

Fresh application u/s 439 Cr.P.C. has been moved on behalf of applicant/accused Arun Kashyap for grant of interim bail for 90 days as per the HPC guidelines.

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

Sh. Somvir Malik, Ld. Counsel for applicant.

Let report of IO and jail authorities be called for 06.09.2021.

Accordingly, copy of this order be also sent to concerned Jail Superintendent, Tihar for NDOH.

Order be uploaded on the website of Delhi District Courts.

**(Arul Varma)
ASJ/Special Judge, Electricity
Court No. 02, Central
Tis Hazari/Delhi/02.09.2021**

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

Bail Application No. 2293/21
FIR No. 131/19
U/s 420 IPC
P.S. Civil Lines
State Vs. Vikas Jha

02.09.2021

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 through video conferencing mode.

Fresh application u/s 439 Cr.P.C. has been moved on behalf of applicant/accused Vikas Jha for grant of interim bail.

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

Sh. S.K. Singh, Ld. Counsel for applicant.

Let report of IO be called for 04.09.2021.

Order be uploaded on the website of Delhi District Courts.

(Arul Varma)
ASJ/Special Judge, Electricity
Court No. 02, Central
Tis Hazari/Delhi/02.09.2021

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

Bail Application No. 2114/21

FIR No. 212/20

U/s 336/120B/34 IPC

P.S. Wazirabad

State Vs. Hari Kishan

02.09.2021

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 through video conferencing mode.

Present application u/s 439 Cr.P.C. has been moved on behalf of applicant/accused Hari Kishan for grant of interim bail.

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

Sh. Fahim Alam, Ld. Counsel for applicant through VC.

Sh. Ravi Rai, Ld. Counsel for the complainant through VC.

IO/SI Anjani Kumar Singh also present.

Due to constant network issue, matter could not be heard.

Accordingly re-list for 07.09.2021 for physical hearing.

Order be uploaded on the website of Delhi District Courts.

(Arul Varma)
ASJ/Special Judge, Electricity
Court No. 02, Central
Tis Hazari/Delhi/02.09.2021

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

BAIL APPLICATION NO. 2187/21

FIR NO. 644/21

U/S 376/506 IPC

P.S. Burari

State vs Krishan

02.09.2021

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 PS Pratap Nagar (Gulabi Bagh), Civil Lines, Roop Nagar, Timarpur, Burari, Subzi Mandi, Bara Hindu Rao, Maurice Nagar, Wazirabad and Crime Branch of Central Police District.

Present application u/s 438 Cr.P.C. has been filed on behalf of the applicant Krishan for grant of anticipatory bail.

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

Dr. Alok, Ld. Counsel for applicant.

Sh. Sohan Lal, Ld. Counsel for the prosecutrix.

Prosecutrix also present in the Court.

Inspector Suresh Kumar, SHO P.S. Burari alongwith IO/SI Madhvi.

On the previous date of hearing, directions were issued to the IO to submit the counseling report and relevant CCTV footage. The counseling report has been filed, however as per reply of the IO dated 02.09.2021, CCTV footage cannot be produced in the Court due to technical error and non preservation of DVR. Be that as it may, Ld.

Counsel for applicant / accused has played a footage in the Court whereby the place of incident namely OYO hotel has been shown from the road. Further, vide the said footage the alleged room where the incident took place has also been shown.

ORDER ON ANTICIPATORY BAIL APPLICATION

1. Vide this order, this Court shall adjudicate upon the anticipatory bail application filed on behalf of the applicant/accused. Arguments heard *in extenso*, the gist whereof is discussed hereunder.
2. Ld. Counsel for applicant /accused contended that a false and motivated case has been registered against the applicant / accused. It was submitted that the applicant is only 18 years of age whereas the prosecutrix is 21 years of age. It was further contended that the sequence of events seem improbable as the prosecutrix did not shout or call for help at the time of commission of the offence, despite the incident taking place in a public place. It was further submitted that there is unexplained delay in registration of the FIR which creates doubt on the version of the prosecutrix. It was lastly submitted that custodial interrogation of the applicant is not required and no recovery is to be effected from or at the instance of the applicant. During the course of arguments today Ld. Counsel filed additional documents to contend that even after the date of the alleged incident, there were exchange of messages between the prosecutrix and the

accused, and phone calls were made between them. It was submitted that the applicant has clean antecedents and is ready and willing to join the investigation, and thus he ought to be granted anticipatory bail.

3. *Per contra*, Ld Addl. PP for the State alongwith the IO, assisted by Ld. Counsel for complainant / prosecutrix vehemently opposed the present anticipatory bail application as per law. It was contended that a heinous offence has been committed against the victim who was lured on the pretext getting her a job, and was induced by the accused to come to a hotel. It was submitted by the State that the accused lives in Jhajjar, and came to Delhi solely for the purpose of commission of the offence. It was contended by Ld. Counsel for the complainant / prosecutrix that both the parents of the victim are handicapped and therefore, she was lured by the accused on the pretext of getting employment, and in such circumstances the conduct of the victim in meeting the accused was natural. Ld. Counsel further contended that a presumption has to be drawn that an offence of rape took place if the complainant makes the statement to this effect. It was also submitted that the victim is being threatened by the accused. It was lastly submitted that recoveries have to be effected and therefore custodial interrogation is required and thus bail ought not to be granted.
4. Submissions heard and record perused.
5. Before adverting to the rivals contentions of both sides, it is

pertinent to note that vide order dated 27.08.2021 it was observed that FIR was registered belatedly on 02.08.2021 despite allegations of the same being committed on 11.07.2021. Show cause was issued to the IO in this regard and reply thereof has also been placed on record. The SHO submitted that a PCR call vide DD No. 53A dated 11.07.2021 was received at P.S. Burari wherein it was stated as thus:-

*“Caller Keh Raha Hai Ki Ek Ladke Ne Mujhe Hotel Me
Bulaya Or Mere Sath Galat Kiya Hai”*

6. It was further submitted by the SHO that the said DD entry was immediately entrusted to SI Suresh Bhatia who reached on the spot and met the complainant. However, no further action could be taken as the victim averred that only when the accused would be called, then only she would make her statement. The copy of the said statement of the victim has also been placed on record.
7. At this juncture, Ld. APP for the State has submitted that because of aforementioned reasons FIR was registered belatedly.
8. In view of the above, this Court deems it fit not delve into the aspect of belated registration of the FIR at this juncture and the said issue may be agitated during the course of trial of the case.
9. At this juncture, it would be apposite to reproduce the following extracts of ***Bhadresh Bipinbhai Sheth Vs. State of Gujarat & Anr., (2016) 1 Supreme Court Cases 152:-***

“(x) The following factors and parameters need to be

taken into consideration while dealing with anticipatory bail:

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

(b) 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;

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

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

(e) Where the accusations have been made only with the object of injuring or humiliating the applicant by arresting him or her;

(f) Impact of grant of anticipatory bail particularly in cases of large magnitude affecting a very large number of people;

(g) 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 overimplication in the cases is a matter of common knowledge and concern;

(h) 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 free, fair and full investigation, and there should be prevention of harassment, humiliation and unjustified detention of the accused;

(i) The Court should consider reasonable apprehension of tampering of the witness or apprehension of threat to the complainant;

(j) 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.”

10. A perusal of the record reveals that the victim has made categorical averments regarding the factum of sexual assault upon her by the accused. At the very first instance, there is a contemporaneous call made to the police helpline i.e. 100 number, immediately after the commission of the alleged offence. The prosecutrix has stated that *Ek Ladke Ne Mujhe Hotel Me Bulaya and Mere Sath Galat Kiya Hai*. She has corroborated her version in the statement made u/s 164 Cr.P.C. before the Ld. MM. As far as the question of improbability of the offence being committed in a public place is concerned, as remonstrated by Ld. Counsel for the accused, the same cannot be countenanced in view of the fact that both the victim and the accused were in a closed room inside the hotel. Further, upon inquiry by the Court to this aspect, the victim averred that no one was outside the room and she had become hopeless. Further, this Court has perused the purported call records and messages between the victim and the accused, allegedly exchanged after the commission of the offence, and the same does not lend credence to the assertion of Ld. Counsel for the accused that it was

a consensual affair. Prima facie it is indicative of friendship. It is trite that friendship between two young adults of opposite sex cannot give rise to the presumption of sexual relations between them, and it would be preposterous to assume so in all circumstances. Recoveries of phone and other incriminating material have yet to be effected and role of accused has to be ascertained. Thus, custodial interrogation seems to be imperative for effective investigation.

11. Under these circumstances, taking into the account the gravity of the offence, severity of the punishment that the offence entails and the role attributed to the applicant, this Court is of the opinion that the applicant/accused ought not to be granted anticipatory bail. Accordingly, the present anticipatory bail application is hereby dismissed.
12. 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 stand disposed off.
13. 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/02.09.2021

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

Bail Application No. 2226/2021
FIR No. 306/2021
U/S 376/506 IPC
P.S. Civil Lines
State Vs. Rajender

02.09.2021

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 PS Pratap Nagar (Gulabi Bagh), Civil Lines, Roop Nagar, Timarpur, Burari, Subzi Mandi, Bara Hindu Rao, Maurice Nagar, Wazirabad and Crime Branch of Central Police District.

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

Present: Sh. Balbir Singh, Ld. Addl. PP for the State through VC.
Sh. Kamal Anand, Ld. Counsel for applicant.
Sh. Gaurav Kumar, Ld. Counsel for prosecutrix alongwith
prosecutrix
IO/WSI Gurdeep Kaur present.
Report of IO received.

ORDER ON ANTICIPATORY BAIL APPLICATION

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

2. Ld. Counsel for applicant /accused submitted that FIR in the present matter has been lodged belatedly i.e. on 19.08.2021, however date of alleged incident is 18.11.2018. He further submitted that both applicant and prosecutrix live in a cramped neighbourhood and it is highly improbable that such an incident took place. He further submitted that no obscene video, as alleged by the prosecution, has been placed on record. He further submitted that on 20.07.2021 the applicant got engaged, whereafter the present case as filed by the complainant. He further submitted that this was a consensual relationship, thus applicant ought to be granted anticipatory bail.
3. Per *contra*, Ld Addl. PP for the State, assisted by Ld Counsel for the Complainant and IO, vehemently opposed the application. It was submitted that delay in FIR has been caused, as applicant blackmailed the prosecutrix on account of obscene video of prosecutrix which he was having in his mobile phone. It was submitted that applicant has made forceful physical relations with the prosecutrix. IO present today submitted that phone has been recovered, however, no such video was there in the phone. IO further submitted that applicant and prosecutrix were constantly talking with each other on phone for one year. IO further submitted that applicant has joined the investigation on 20.08.2021 and 24.08.2021.

4. Submission heard and record perused.
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. Further, it would be imperative to peruse the following extract of the judgment relied upon the judgment by Ld. Counsel for accused/applicant viz ***Dr. Sandeep Morya Vs. State, Bail Application no. 838/2021 decided by Hon'ble High Court of Delhi on 22.03.2021:***

"9. The material on record shows that though initially the prosecutrix came up with the case wherein she has alleged that the petitioner gave her a drink laced with sedatives and taking advantage of the fact that she was not conscious the petitioner herein raped her. This allegation has been given a go by and the subsequent allegation of the prosecutrix is that sexual relationship was established on the basis of promise to marry. There are contradictions between the initial version and the present version of the prosecutrix. This Court has perused all

the records and does not find any promise of marriage. There is no further material which has to be recovered from the petitioner. The sexual relationship was established on the promise of marriage or not is a matter of trial and has to be established during the trial. ”

7. The above judgments 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.
8. Adverting to the rival contentions of both sides, a perusal of the record reveals that 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. A perusal of the reply of the IO reveals that applicant has already joined the investigation on 20.08.2021 and 24.08.2021. Further, during the course of arguments, IO had submitted that applicant and prosecutrix were constantly talking with each other for one year. The impugned mobile phone have already been recovered, and as per the version of the IO, no such video was found upon a bare perusal.
9. Regarding the issue of joining investigation, it would be apposite to reproduce the following extracts of ***Bhadresh Bipin Bhai Sheth Vs. State of Gujarat & Anr., (2016) 1 Supreme Court Cases***

152:-

“The principles for grant of anticipatory bail can be summarised as follows:-

(i).....

(ii).....

(iii) It is imperative for the courts to carefully and with meticulous precision evaluate the facts of the case. The discretion to grant bail must be exercised on the basis of the available material and the facts of the particular case. In cases where the court is of the considered view that the accused has joined the investigation and he is fully cooperating with the investigating agency and is not likely to abscond, in that event, custodial interrogation should be avoided. A great ignominy, humiliation and disgrace is attached to arrest. Arrest leads to many serious consequences not only for the accused but for the entire family and at times for the entire community. Most people do not make any distinction between arrest at a pre-conviction stage or post-conviction stage.....”

10. 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 has already joined the investigation and recovery of phone has been effected, this Court deems it fit to grant anticipatory bail to the applicant Rajender 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 investigation as and when called for.
 - 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.
11. 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.
12. 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/02.09.2021

**IN THE COURT OF SH. ARUL VARMA, ADDL. SESSIONS JUDGE/
SPECIAL JUDGE, ELECTRICITY, COURT NO. 2, CENTRAL, THC**
BAIL APPLICATION NO. 2279/21
FIR NO. 51/21
U/S 419/420/120B IPC
P.S. Crime Branch
State vs Ugrasen Singh

02.09.2021

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 PS Pratap Nagar (Gulabi Bagh), Civil Lines, Roop Nagar, Timarpur, Burari, Subzi Mandi, Bara Hindu Rao, Maurice Nagar, Wazirabad and Crime Branch of Central Police District.

Present application u/s 438 Cr.P.C. has been filed on behalf of the applicant Ugrasen Singh for grant of anticipatory bail.

Present: Sh. Balbir Singh, Ld. Addl. PP for the State through VC.
Sh. Ankur Sharma, Ld. Counsel for applicant.
Sh. Rajan Kumar Aggarwal, Ld. Counsel for the complainant through VC.
IO/Inspector Rajeev Kumar also present.

ORDER ON ANTICIPATORY BAIL APPLICATION

1. Vide this order, this Court shall adjudicate upon the anticipatory bail application filed on behalf of the applicant/accused. Arguments heard *in extenso*, the gist whereof is discussed hereunder.
2. Ld. Counsel for applicant /accused submitted that the bank accounts of the applicant / accused have already been seized by

the IO. Further, relevant contact details are also in the possession of the IO. Therefore, according to Ld. Counsel for applicant / accused, custodial interrogation of applicant / accused is not required. It was further contended that allegations are mainly against accused Amit. Lastly, it was submitted that accused is ready and willing to join the investigation and thus he ought to be granted anticipatory bail.

3. *Per contra*, Ld Addl. PP for the State alongwith the IO, assisted by Ld. Counsel for complainant vehemently opposed the present anticipatory bail application as per law. It was submitted that the accused and his cohorts posed as officials of M/s Kudos Laboratories India Ltd. and not only duped unsuspecting customers but also supplied spurious medicines. Further, unexplained sums of money were transacted as reflected in the account of the accused.
4. Submission heard and record perused.
5. At this juncture, it would be apposite to peruse the judgment titled ***Sunil Dahiya Vs. State (Govt. of NCT of Delhi), Bail Application No. 1212/2016 dated 18.10.2016*** wherein Hon'ble High Court of Delhi has held as thus:-

“49. The applicant accused appears to be a person with deep pockets. If he could manipulate and dupe more than 1000 investors to invest in his projects, he may as well be able to influence these investors, other witnesses and the evidence to save his own skin. The Applicant herein has been accused of economic offences involving cheating and misappropriation of huge amounts of public funds, and such offences

- as observed by the Apex Court, have to be viewed seriously. In *Y.S. Jagan Mohan Reddy v. Central Bureau of Investigation*, (2013) 7 SCC 439, the Court in Para 34 observed:

"34. Economic offences constitute a class apart and need to be visited with a different approach in the matter of bail. The economic offences having deep rooted conspiracies and involving huge loss of public funds need to be viewed seriously and considered as grave offences affecting the economy of the country as a whole and thereby posing serious threat to the financial health of the country."

50. Further, in *State of Gujarat vs. Mohanlal Jitamalji Porwal and Anr.*, (1987) 2 SCC 364, the Court in Para 5 observed:

"5. The entire Community is aggrieved if the economic offenders who ruin the economy of the State are not brought to book. A murder may be committed in the heat of moment upon passions being aroused. An economic offence is committed with cool calculation and deliberate design with an eye on personal profit regardless of the consequence to the Community. A disregard for the interest of the Community can be manifested only at the cost of forfeiting the trust and faith of the Community in the system to administer justice in an even handed manner without fear of criticism from the quarters which view white collar crimes with a permissive eye unmindful of the damage done to the national economy and national interest.."

6. Further, the above judgment, which ordains Courts to be circumspect while adjudicating bail applications in cases pertaining to offences against property and offences related to documents, also observed as thus:-

"53. The Supreme Court, in *Neeru Yadav v. State of U.P.*, (2014) 16 SCC 508 - which was also a case of regular bail under Section 439, observed as follows:

"16. xxx We are not oblivious of the fact that the liberty is a priceless treasure for a human being. It is founded on the bed rock of constitutional right and accentuated further on human rights principle. It is basically a natural right. In fact, some regard it as the grammar of life. No one would like to lose his liberty or barter it for all the wealth of the world. People from centuries have fought for liberty, for absence of liberty causes sense of emptiness. The sanctity of liberty is the fulcrum of any civilized society. It is a cardinal value on which the civilisation rests. It cannot be allowed to be paralysed and immobilized. Deprivation of liberty of a person has enormous impact on his mind as well as body. A democratic body polity which is wedded to rule of law, anxiously guards liberty. But, a pregnant and significant one, the liberty of an individual is not absolute. The society by its collective wisdom through process of law can withdraw the liberty that it has sanctioned to an individual when an individual becomes a danger to the collective and to the societal order. Accent on individual liberty cannot be pyramided to that extent which would bring chaos and anarchy to a society. **A society expects responsibility and accountability from the member, and it desires that the citizens should obey the law, respecting it as a cherished social norm. No individual can make an attempt to create a concavity in the stem of social stream. It is impermissible. Therefore, when an individual behaves in a disharmonious manner ushering in disorderly things which the society disapproves, the legal consequences are bound to follow.** At that stage, the Court has a duty. It cannot abandon its sacrosanct obligation and pass an order at its own whim or caprice. It has to be guided by the established parameters of law".

7. In the present case, serious allegations of commission of fraud and supply of spurious medicines have been levelled against the accused and his associates. During the course of arguments it was submitted by the State that an amount of Rs. 33 lacs was deposited in the account of the accused, and now only an amount

of Rs. 1 lac is left in the account. It was brought to the fore that accused merely earns a salary of Rs. 6,500/-, however his bank account reflected a huge unexplained amount of money. There are more victims who have been duped. Further, co-accused have to be identified and apprehended, and the entire conspiracy needs to be unearthed and custodial interrogation seems to be imperative for the same.

8. Under these circumstances, taking into the account the gravity of the offence, severity of the punishment that the offence entails and the role attributed to the applicant, this Court is of the opinion that the applicant/accused ought not to be granted anticipatory bail. Accordingly, the present anticipatory bail application is hereby dismissed.
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 stand 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
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