



2025:AHC:199200

HIGH COURT OF JUDICATURE AT ALLAHABAD
CRIMINAL MISC. ANTICIPATORY BAIL APPLICATION U/S 482
BNSS No. - 8770 of 2025

Prashant Pal

.....Applicant(s)

Versus

State of U.P.

.....Opposite
Party(s)

Counsel for Applicant(s)	: Jeetendra Kumar Sharma, Laxmi Dubey
Counsel for Opposite Party(s)	: G.A.

Court No. - 71

HON'BLE NALIN KUMAR SRIVASTAVA, J.

1. This application has been moved on behalf of the applicant - **Prashant Pal** seeking anticipatory bail in Case Crime No.409 of 2025, under Sections 115(2), 351(2), 69 B.N.S., Police Station Auraiya, District Auraiya.
2. Heard learned counsel for the applicant, learned A.G.A. for the State and perused the record.
3. As per F.I.R., it is alleged that the present accused applicant on the false promise of marriage made physical relations with her and physically and mentally tortured her and subsequently he refused to marry her and then F.I.R. was lodged and after investigation, charge-sheet has been submitted.
4. It has been argued by the learned counsel for the applicant that applicant is innocent and he has apprehension of his arrest in the above-mentioned case, whereas there is no credible evidence against them. Allegations levelled against the applicant are vague and false. It is further submitted that a Crl. Misc. Writ Petition No.15013 of 2025 was preferred by the applicant and he had been granted interim protection till submission of police report by the Division Bench of this Court vide order dated 30.7.2025 and the said liberty was never misused by the present applicant. It is further submitted that although the applicant was having physical relations with the victim but it is totally wrong to say that any promise to marry her was made by the applicant. It is also submitted that according to the statement of the victim herself, they were living together since 2020 and the relationship between the two continued for a period of five years. Subsequently dispute arose

between them and the engagement of the applicant was performed with some other girl. It is further submitted that it is totally false to say that the applicant at one point of time refused to marry with the victim and on the other side the victim was sexually exploited by the applicant. It is further submitted that the applicant never made any promise to marry with her. It is further submitted that it is a case of consensual relationship and the prosecutrix is a major lady and she never raised any alarm while in the company of the applicant. Now after filing of the charge-sheet, the applicant is entitled for anticipatory bail till the end of trial.

5. Per contra, learned A.G.A. vehemently opposed the prayer for anticipatory bail and it has been submitted that on the false pretext of marriage, the accused applicant continued to have sexual relations with the victim for a period of five years but ultimately his marriage was settled somewhere else and still he was threatening the victim on the basis of some obscene videos. The offence is very serious and the accused applicant could not be granted benefit of the provisions of anticipatory bail. It is further submitted that after lodging of the F.I.R. the investigation started wherein the victim corroborated the prosecution version and the doctor who medically examined her also found that she was the victim of sexual violence. The act committed by the accused applicant shows his fraudulent intention towards the victim of the case. The accused applicant has ruined the whole life of the victim who continued the relationship with him with the hope that he will marry with her at proper time but once he betrayed with the victim, she was compelled to lodge F.I.R. against him. It is further submitted that the offence is very heinous in nature and on the basis of the evidence collected during the course of investigation, active role in the commission of the offence on the part of the applicant is proved and he is not entitled for anticipatory bail.

6. Having heard learned counsel for the parties and considering the material available on record and keeping in mind the fact that the physical relationship between the two were continued for several years whereas the victim was a major girl and since the inception was fully aware to understand the result of the act which she was doing with the accused applicant as she completely believed and trusted him but from the very inception of the relationship the accused applicant was not intending to marry her.

7. In **Sushila Aggarwal and others vs. State (NCT of Delhi) and another, (2020) 5 SCC 1**, the Hon'ble Apex Court has held that while considering an application for grant of anticipatory bail, the court has to consider the nature of the offence, the role of the person, the likelihood of his influencing the course of investigation, or tampering with evidence including intimidating witnesses, likelihood of fleeing justice, such as leaving the country, etc. It has further been held that Courts ought to be generally guided by considerations such as the nature and gravity of the offences, the role attributed to the applicant, and the facts of the case, while considering whether to grant anticipatory bail, or refuse it. Whether to grant or not is a matter of discretion.

8. The Hon'ble Apex Court in **Deepak Gulati v State of Haryana, (2013) 7 SCC 675 ("Deepak Gulati")** held as under:

"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"

Further, in paragraph 16 of the aforesaid judgment explaining the terms - misconception of fact, consent and breach of promise, the Hon'ble Supreme Court observed that :

"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 this Court further observed:

"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."

9. In the present case, it reflects from the factual matrix of the matter that the fraudulent intention of the accused applicant towards the victim of the case was there from the very inception. Since the very inception, he never intended to marry with the victim and he was only fulfilling his lust. On the false promise of marriage, he made physical relations with the prosecutrix again and again. Exploiting the victim on the pretext of marriage and finally refusing to marry her are such tendencies growing in the society, which must be nipped in the bud. It is a serious offence against the society, hence the applicant is not entitled to any indulgence.

10. Hence, considering the settled principles of law regarding anticipatory bail, submissions of the learned counsel for the parties, nature of accusation, role of applicant and all attending facts and circumstances of the case, without expressing any opinion of the merits of the case, in my view, it is not a fit case for grant of anticipatory bail to the applicant.

11. The anticipatory bail application is **rejected**.

November 4, 2025

SS

(Nalin Kumar Srivastava,J.)