

Bail Application No. [REDACTED]

HR No. [REDACTED]

PS, Laxmi Nagar

State Vs. [REDACTED]

U/s 376 IPC

Present: [REDACTED], Ld. Counsel for the applicant/accused

Sh. [REDACTED], Ld. Addl. PP for the State.

WSI [REDACTED] is present.

Complainant in person.

This is an application under section 439 Cr.P.C. praying for grant of bail filed by the applicant/accused [REDACTED].

• Reply to the bail application has been filed. Submissions have been addressed.

[REDACTED] Ld. Counsel has submitted that the relationship between the complainant and the applicant/accused [REDACTED] was consensual. The complainant and the applicant/accused met in 2018 in Ajmer, Rajasthan during the marriage of a friend after which they entered into a romantic relationship. Enquiry about marriage prospects came from the family of the complainant. The applicant/accused [REDACTED] and the complainant visited several places together and stayed together in hotels. Photographs of the complainant and the applicant/accused have been enclosed with the bail application. It is submitted that in June, 2020 the applicant/accused informed his family about his relationship with the complainant after which in December, 2020 family of the complainant came to Delhi to finalize the marriage.

By [REDACTED] No. 40/2022

On [REDACTED]

At [REDACTED]

[REDACTED]



Page 10 of 10

[redacted] Ld. Counsel has submitted that rokka ceremony between the complainant and the applicant/accused was fixed for [redacted] after the families agreed but subsequently differences cropped up between the complainant and the applicant/accused due to which the complainant expressed her desire to terminate the relationship. It is submitted that on [redacted] was the complainant who called the applicant/accused stating that she did not want to continue with the relationship but at that time family of the complainant was at the home of the applicant/accused for the rokka ceremony which was going on. Later on [redacted] the parents of both the parties talked and gifts received by the family of the applicant/accused were returned to the family of the complainant on [redacted]. It is submitted that out of vendetta the complainant lodged the FIR on [redacted]

FIR in this case has been registered on the complaint of the prosecutrix on [redacted] with the allegations that the complainant is a resident of Alwar, Rajasthan and was residing in [redacted] Delhi. Till two months prior to making of the complaint, the complainant was working as a Sales person. In 2018 the applicant/accused had taken the complainant to his home at [redacted] and forcibly had physical relations with the complainant stating that they were to get married. The complainant informed the parents of the applicant/accused who stated that the act committed by the applicant/accused did not matter as even after marriage they were to have physical relations. It is alleged that the complainant had got pregnant but the applicant/accused gave her abortion pills. Complainant did not disclose this fact due to fear because the applicant/accused had taken her objectionable photographs and

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Page 1 of 1

threatened to circulate them. Thereafter, the applicant accused her physical relations forcibly with the complainant between 2016 to November, 2021 at several hotels and had taken her to several places. Complainant repeatedly told these facts to the parents of the applicant/accused who did not pay any attention and threatened that since they were Safai Karamcharis in the M.C.D. the complainant would not be able to do anything to them. Complainant has alleged that the sister-in-law of the applicant/accused disclosed to her that she had immoral relationship with the applicant/accused. Complainant told the applicant/accused to change his ways but he threatened the complainant and beat her up. It is alleged that the applicant/accused used to suggest the complainant to commit suicide. On _____ rokka ceremony took place after which the family of the applicant/accused started demanding for a car or money in lieu of the car as well as gold, gold rings, cash for his family members. When the father of the complainant was unable to give the same, the family of the applicant/accused on _____ cancelled the marriage and threatened the family of the complainant.

As per the reply filed to the bail application, statement of the prosecutrix was recorded under section 164 of the Cr.P.C. in which she did not support her complaint. Copy of the said statement was made available by the IO. It is a short statement in which the complainant has stated that the applicant/accused was a friend of her distant relative. Since 2018, they were in a relationship and their families had agreed to the marriage because they i.e. the complainant and the applicant/accused were together. Complainant has stated that the relationship with the applicant/accused was

consensual. On [redacted] tokka ceremony had taken place but the next day the applicant/accused refused for the marriage. Even the parents of the applicant/accused refused for the marriage after which the complainant lodged the FIR. Complainant has stated that now the applicant/accused is ready for the marriage and that she does not want any action to be taken against him.

In the case of *Pramod Suryabhan Pawar v. State of Maharashtra* reported in (2019) 9 SCC 608 the Hon'ble Supreme Court was pleased to reiterate the law in respect of the offence of rape on the false promise of marriage. It was held that an individual, who makes a reasoned choice to act after evaluating various alternative actions (or inaction) as well as the various possible consequences flowing from such action or inaction, consents to such action. Inference as to consent can be drawn based on evidence or probabilities of the case. It was held that in the context of a promise to marry, there is a distinction between a false promise given on the understanding by the maker that it will be broken, and the breach of a promise which is made in good faith but subsequently not fulfilled. There is a distinction between the mere breach of a promise, and not fulfilling a false promise. The court must examine whether there was made, at an early stage a false promise of marriage by the accused. 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.

Pramod Suryabhan Pawar v. State of Maharashtra
(2019) 9 SCC 608

The allegations made in the present case reveal that the complainant and the applicant/accused were in a relationship since December, 2018. The complainant has gone to several places with the applicant/accused and has stayed with him in hotels. The complainant who is a Sales Executive belonging to Alwar, Rajasthan and working in Delhi is mature enough to know what she was doing. Material on record suggests that the relationship was consensual. After about three years of the relationship Rokka ceremony had taken place on [REDACTED] after which something went wrong leading to the complainant lodging the present FIR on [REDACTED] i.e. within one week of the Rokka ceremony.

The matter seems to be more of a breach of a promise which is made in good faith but subsequently not fulfilled rather than a false promise given on the understanding by the maker that it will be broken.

In these facts and circumstances, the applicant/accused [REDACTED] has made out a case for grant of bail. The bail application is therefore allowed. I hereby admit applicant/accused [REDACTED] on bail subject to him furnishing a Personal Bond in the sum of Rs. 25,000/- with one surety of the like amount to the satisfaction of Ld.CMM/ACMM/MM/LinkMM/DutyMM.

Application is disposed off.

