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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
+ **BAIL APPLN. 2339/2022 & CRL M.A. No.20225/2022**  
**RAVI LAKHINA** ..... Petitioner

Through: Mr.Sunil Dalal, Senior Advocate  
with Mr.Pradeep Sehrawat,  
Ms.Manisha Saroha, Ms.Payal,  
Ms.Pratibha Varun and Mr.Jatin  
Gulia, Mr.Shanul Kadian,  
Advocates.

versus

**STATE (GNCT OF DELHI) AND ANR.** ..... Respondents

Through: Mr.Yudhvir Singh Chauhan, APP  
for State with Inspector Kuldeep  
Singh, PS Vasant Kunj North.  
Mr.Lokesh Ahlawat, Advocate for  
complainant with complainant in  
person.

**CORAM:**

**HON'BLE MR. JUSTICE YOGESH KHANNA**

**ORDER**

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**18.10.2022**

1. This petition is moved for grant of anticipatory bail in case FIR No.156/2022 under Section 376/506 IPC registered at police station Vasant Kunj North at the instance of prosecutrix/respondent No.2 wherein she alleged she has been exploited by the petitioner on the pretext of marriage since October 2018.

2. The main grounds taken by the petitioner is alleged promise to marry, if any, was given in October 2018 through Shadi.com when they first met on 13.10.2018 and they indulged in sexual intercourse in October 2018 itself. They went to Agra on 23.03.2019 and made consensual relations. It is further alleged in the year 2019 the prosecutrix came to know the petitioner had not taken divorce from his wife, yet she

continued the consensual relationship with him and hence condoned his act and as such now she cannot plead she was innocent and was duped by the petitioner as she made consensual relations with him till February 2022.

3. Reference was made to *Pushp Raj Yadav vs. The State* in BAIL APPLN.1700/2020 decided on 28.08.2020; *Balveer Singh Bundela vs. State of Madhya Pradesh* ILR (2020) MP 1216; *Mandar Deepak Pawar vs. The State of Maharashtra and Anr.* in CRL.A.442/2022 order dated 27.07.2022; *Shambhu Kharwar vs. State of Uttar Pradesh and Anr.* in CRL.A.1231/2022 decided on 12.08.2022 and *Pramod Suryabhan Pawar vs. The State of Maharashtra and Anr.* CRL.A.1165/2019 order dated 21.08.2019 to argue where the relations are consensual and exist for long time anticipatory bail can be granted even if parties may fall apart, as it can happen even before or after marriage.

4. A bare perusal of the FIR would show the accused had misrepresented himself to be a *divorcee and that his wife and kids were residing in Canada*. See profile in Shadi.com. He even changed his name to Vishal and gave fake address of East of Kailsh instead of Chander Nagar, Janakpuri, Delhi. There was misrepresentation/misconception right from *inception* and false promises, were made to get the prosecutrix engaged in sexual act. It appears the prosecutrix came to know of his marriage in the year 2019 and she filed complaint but it was withdrawn as the accused had assured her he would get a divorce from his wife which was under process. Here too he showed her some documents purportedly a petition of divorce (*fake*) pending at Dwarka Court. Thus at every step he misrepresented the facts to obtain her

consent on false grounds/facts. Thus there exist a direct nexus of false promise to the prosecutrix decision to engage in sexual act.

5. Even under Section 164 Cr.P.C. the prosecutrix reiterated that when she came to know of his marriage, he convinced her he will surely get divorce from his earlier wife and would marry her. He even displayed fake divorce petition and again engaged in sexual act.

6. The finding given in *Pramod Suryabhan Pawar* (supra) cannot be ignored:

*“18. 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.**”*

7. Moreso, the petitioner did not join the investigation. Admittedly NBWs were issued against him on 11.05.2022 but were stayed by the learned Magistrate. Further, such order was rather stayed on 02.08.2022 by this Court as already three anticipatory bail applications of this applicant were dismissed.

8. Admittedly, the applicant has been declared an absconder on initiating of process under Section 81/82 Cr.P.C.

9. In *Prem Shankar Prasad (S) vs. State of Bihar and Another* 2021 SCC Online SC 955, the Court held as follows:

*“16. Recently, in Laves v. State (NCT of Delhi) [(2012) 8 SCC 730] , this Court (of which both of us were parties) considered the scope of granting relief under Section 438 vis-à-vis a person who was declared as an absconder or proclaimed offender in terms of Section 82 of the Code. In para 12, this Court held as under:*

*“12. From these materials and information, it is clear that the present appellant was not available for interrogation and investigation and was declared as ‘absconder’. Normally, when the accused is ‘absconding’ and declared as a ‘proclaimed offender’, there is no question of granting anticipatory bail. We reiterate that when a person against whom a warrant had been issued and is absconding or concealing himself in order to avoid execution of warrant and declared as a proclaimed offender in terms of Section 82 of the Code he is not entitled to the relief of anticipatory bail.”*

*It is clear from the above decision that if anyone is declared as an absconder/proclaimed offender in terms of Section 82 of the Code, he is not entitled to the relief of anticipatory bail.”*

*Thus the High court has committed an error in granting anticipatory bail to respondent No.2 – accused ignoring the proceedings under Section 82-83 of Cr.PC.”*

10. In the circumstances, the petitioner is not entitled to anticipatory bail considering his conduct of cheating the prosecutrix at every occasion and primarily because he does not join investigation and has been declared a proclaimed offender. The petition is dismissed accordingly. Pending application(s) also stands disposed of.

**YOGESH KHANNA, J.**

**OCTOBER 18, 2022**

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