



2026:AHC:16718

HIGH COURT OF JUDICATURE AT ALLAHABAD
CRIMINAL MISC. BAIL APPLICATION No. - 2218 of 2026

Dinesh Kumar Saroj

.....Applicant(s)

Versus

State of U.P.

.....Opposite
Party(s)

Counsel for Applicant(s)	:	Anil Kumar Yadav
Counsel for Opposite Party(s)	:	G.A.

Court No. - 65

HON'BLE DR. GAUTAM CHOWDHARY, J.

1. Heard learned counsel for the applicant, learned A.G.A for the State and perused the record.
2. According to the F.I.R., allegations, the applicant trapped the victim in his love affair and on the pretext of marriage had established physical relations with her.
3. Learned counsel for the applicant has submitted that the victim is major and that on account of love affair between the applicant and the victim, the marriage was settled for 28.11.2025. He further submits that engagement ceremony also took place but on account of some discord, the marriage could not be solemnised. Whatever sexual relations were developed that were consensual. He further submits that according to the statement of the victim, the applicant and victim were in consensual relations but there is no whisper that the applicant had promised to marry, later on, the marriage was settled between the parties, even the engagement ceremony also took place but due to some misconception, the marriage could not take place. It is thus contended that no offence under Section 69 of B.N.S. is made out against the applicant. It is thus contended that the applicant has been falsely implicated in the present case due to ulterior motive. Several other submissions in order to demonstrate the falsity of the allegations made against the applicant have also been placed before the Court.

The circumstances which, according to the counsel, led to the false implication of the accused have also been mentioned. It has also been assured on behalf of the applicant that he is ready to cooperate with the process of law and shall faithfully make himself available before the court whenever required and is also ready to accept all the conditions which the Court may deem fit to impose upon him. He next submits that applicant is languishing in jail since 19.07.2025.

4. Per contra, learned A.G.A. as well as learned counsel for the informant have opposed the prayer for bail of the applicant by contending that the innocence of the applicant cannot be adjudged at pre trial stage, therefore, he does not deserve any indulgence. In case the applicant is released on bail he will misuse the liberty of bail.

5. Before proceeding further, it is necessary to peruse Section 69 of Bhartiya Nyaya Sanhita, which is quoted below:-

" Whoever, by deceitful means or by making promise to marry a woman without any intention of fulfilling the same, and has sexual intercourse with her, such sexual intercourse not amounting to the offence of rape, shall be punished with imprisonment of either description for a term which may extend to ten years and shall also be liable to fine."

Explanation: *"deceitful means" shall include the false promise of employment or promotion, inducement or marrying after suppressing identity."*

6. Hon'ble Apex Court in the matter of ***Mahesh Damu Khare Vs. The State of Maharashtra and another*** reported in ***2024 SCC On Line SC 3471***, has held in paragraph no. 26, 27 and 31 as under:-

"26. In the present case, the nature of relationship between the appellant and the complainant can be

characterised by the following attributes:

(i) The appellant and the complainant were acquainted with each other since 2008. The complainant herself admits that the appellant has been in physical relationship since then till 2017 without protest in spite of alleging that the appellant had done so without her consent.

(ii) The physical relationship was going on routinely. But the complainant in her complaint states that after she got a rented room in Shirvane, Nerul Sector 1, Navi Mumbai, in December, 2010, the appellant used to come every day and had sexual intercourse everyday, though without her consent and by giving false promise of marriage.

(iii) The complainant does not appear to be a naive and gullible woman who was susceptible to deceit while maintaining physical relationship with the appellant and the allegation of false promise surfaced only when the appellant refused to provide further financial and other assistance.

(iv) The conduct of the complainant clearly shows that she is a mature person clearly capable of understanding the consequences of her acts and she was fully aware of the kind of illicit relationship she was maintaining with a married person.

(v) The complainant was fully aware that the appellant was already married and had two wives, though one of them was not keeping well.

27. Thus, from the above it appears that it is more of an extra-marital affair during the aforesaid period without any insistence by the complainant for getting married to the appellant. The fact that the complainant continued to have a physical

relationship for a long time without any insistence on marriage would indicate the unlikelihood of any such promise made by the appellant for marrying her and it rather indicates that the relationship was a consensual one.

In our opinion, the longer the duration of the physical relationship between the partners without protest and insistence by the female partner for marriage would be indicative of a consensual relationship rather than a relationship based on false promise of marriage by the male partner and thus, based on misconception of fact.

(emphasis supplied)

31. In our view if criminality is to be attached to such prolonged physical relationship at a very belated stage, it can lead to serious consequences. It will open the scope for imputing criminality to such long term relationships after turning sour, as such an allegation can be made even at a belated stage to drag a person in the juggernaut of stringent criminal process. There is always a danger of attributing criminal intent to an otherwise disturbed civil relationship of which the Court must also be mindful.”

7. Considering the entire facts and circumstances of the case, submissions of learned counsel for the parties, nature of evidence and all attending facts and circumstances of the case, without expressing any opinion on merits of the case, this Court is of the view that the applicant has made out a case for bail. Hence the bail application is allowed.

8. Let applicant **Dinesh Kumar** involved in Case Crime No.326 of 2025 under Section 69 B.N.S., Police Station Soraon, District Prayagraj, be released on bail on furnishing a personal bond and two local heavy sureties each of the like

amount to the satisfaction of the court concerned subject to the following conditions:-

- i) The applicant shall not tamper with the prosecution evidence.
- ii) The applicant shall not threaten or harass the prosecution witnesses.
- iii) The applicant shall appear on the date fixed by the trial court.
- iv) The applicant shall not commit an offence similar to the offence of which the applicant is accused, or suspected of the commission.
- v) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade such person from disclosing facts to the Court or to any police officer or tamper with the evidence.

9. In case of breach of any of the above condition, the trial Court shall be at liberty to cancel the bail of the applicant in accordance with law.

January 22, 2026

S.Ali

(Dr. Gautam Chowdhary,J.)