

Dr. Kapil Kalaswa vs State (Gnct Of Delhi) And Anr on 30 May, 2025

* IN THE HIGH COURT OF DELHI AT NEW DELHI

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Reserved on: 28.05.2025
Pronounced on : 30.05.2025

+ BAIL APPLN. 1550/2025
DR. KAPIL KALASWA

.....Petitioner

Through: Mr. Lokesh Kumar Mishra, Mr.
Himanshu Sharma, Mr. Haider
Khan, Mr. Nadeem Ahmad, Mr.
Robin Singh, Mr. Devansh
Sehgal and Mr. Sourabh Bisht,
Advocates.

versus

STATE (GNCT OF DELHI) AND ANR

.....Respondents

Through: Mr. Satish Kumar, APP for
State with SI Esther Dazi Duo,
PS Hauz Khas.
Mr. Nishant Mittal, Mr. Neeraj
Badjatya, Mr. Vivek Raj Singh,
Mr. Vishal Aggarwal,
Advocates for R-2/complainant
and Complainant in Person.

CORAM:

HON'BLE MS. JUSTICE SHALINDER KAUR
JUDGMENT

SHALINDER KAUR, J

1. The present petition under Section 483 read with Section 528 of the Bhartiya Nagarik Suraksha Sanhita, 2023 (BNSS) has been filed by the Petitioner, seeking the grant of Regular Bail in FIR No.93/2025 dated 28.01.2025 for the offences under Section 64(1), 115(2), and 118 of the Bhartiya Nyay Sanhita, 2023 (BNS) registered at Police Station Hauz Khas.

PROSECUTION'S CASE

2. The case was set in motion on the basis of a PCR call made on 25.01.2025, vide DD No. 90A, by the complainant 'K', daughter of late Sh. 'F'. The said call was initially received at Police Station Hauz Khas and thereafter marked to the jurisdictional Police Station Mehrauli. A second PCR call from the same complainant was received on 26.01.2025 vide DD No. 29A and was similarly transferred to Police Station Mehrauli.

3. On the same day, SI Neha from P.S. Mehrauli brought the complainant to P.S. Hauz Khas and informed that the complainant had levelled serious allegations of rape against her boyfriend, Dr. Kapil Kalaswa (Petitioner), a Junior Resident in the Department of Pain & Palliative Medicine at

AIIMS, Delhi. The Prosecutrix alleged that she had been subjected to repeated sexual assaults by the accused at his rented accommodation since the first week of December 2024 under the false promise of marriage.

4. The Prosecutrix initially, on 25.01.2025, declined to furnish a written Complaint and sought time to steady herself. However, on 27.01.2025, she returned to the police station and submitted a written Complaint wherein she alleged that she first met the accused in the emergency ward of AIIMS Delhi in early December 2024 when she had sought treatment for anxiety and depression. It was alleged that after exchanging contact details. The next morning, the petitioner took her to his rented accommodation to give her medication as the doctor of psychiatry had prescribed the prosecutrix some pills to induce sleep. She had claimed she was disturbed and was not able to sleep and therefore, she was given pills to sleep. After consuming two tablets, the prosecutrix was in a semi-conscious state when the accused subjected her to non-consensual sexual intercourse, including anal intercourse.

5. The Prosecutrix further alleged that due to her unhealthy state of mind, the petitioner promised to marry her and to give her love and that she would be most happy with him. She further alleged that the accused repeatedly established sexual relations with her under the influence of narcotic substances such as LSD and marijuana. The prosecutrix claimed that the accused had assured her of marriage, even applying sindoor on her forehead and referred to her as his wife. However, over time, his conduct allegedly became abusive and violent, with incidents of physical and sexual assault involving objects and blackmail through intimate videos.

6. The Prosecutrix stated that she was confined by the accused and prevented from accessing the outside world by destruction of mobile phone. On 25.01.2025, while visiting her rented accommodation in Mehrauli, she was allegedly subjected to further physical and sexual violence. She reported that the accused bit, scratched, and injured her, locked her inside the premises, and prevented her from seeking help until she managed to contact her mother and the police.

7. On the basis of the written Complaint, MLC No. 525/2025 was procured from AIIMS Hospital. The Prosecutrix initially declined internal medical examination and sample collection but subsequently consented to sample collection on 27.01.2025.

8. Upon evaluation of the Complaint, MLC, and preliminary enquiry, offences under Sections 64(1), 115(2), and 118 BNS were found to be made out, and FIR No. 93/2025 was accordingly registered. The Prosecutrix's statement under Section 183 of the BNSS was recorded before the Magistrate on 29.01.2025, reiterating and elaborating the allegations against the accused.

9. On the same day, the Petitioner appeared at the police station and was identified by the Prosecutrix. Upon interrogation, he admitted to having met the Prosecutrix at AIIMS and to having a physical relationship with her. He claimed that the relationship was consensual. Upon being found to be in possession of incriminating information and evidence, the accused was formally arrested and his disclosure statement recorded.

10. Pursuant to his disclosure statement being recorded, his mobile phone was recovered from a shop, as pointed out by the Petitioner, which was seized and found to be beyond repair, and sent to the FSL for data retrieval. Medical examination of the accused was conducted at AIIMS and relevant exhibits, including his blood sample, were collected and seized.

11. The Petitioner had previously moved a Bail application before the learned Additional Sessions Judge (ASJ), which came to be dismissed on 09.04.2025, compelling the Petitioner to file the present Bail application.

12. The learned counsel for the Petitioner submitted that the learned ASJ has erred in rejecting the prayer for Bail without appreciating the fact that the Petitioner has clean antecedents. It is submitted that the Petitioner, aged 28 years, is a young professional serving as a Doctor at AIIMS, New Delhi, and holds a permanent government post.

13. It is contended that the present case is a classic instance of honey trapping and abuse of the criminal justice system, with the ulterior motive of extortion. The learned counsel submitted that the FIR is mala fide, and the Complaint was registered only after attempts to extract money from the Petitioner's family failed.

14. The learned counsel submitted that the Prosecutrix is habitual in lodging false and frivolous FIRs against innocent persons, as evident from multiple past cases filed by her against various individuals under similar allegations. It is pointed out that she has altered her name and the name of her father across several Complaints with an objective of misleading and extorting.

15. It is submitted that the FIR in question was registered after a delay of nearly three days despite PCR calls being made on 25.01.2025. Even prior to that, the Prosecutrix never reported any incident to the police. The delay, it is submitted, is unexplained and casts serious doubt on the credibility of the allegations. Moreover, the Prosecutrix initially refused to undergo medical examination and did not record any statement, allegedly choosing instead to negotiate a financial settlement with the Petitioner's parents.

16. The learned counsel further contended that the Petitioner and the Prosecutrix were living together in a consensual live-in relationship since December 2024 and that the Prosecutrix represented herself as unmarried and introduced herself to the Petitioner and his family under a Hindu name. It is submitted that the nature of their relationship was never predicated on a promise of marriage.

17. The learned counsel further submitted that the investigation in the matter stands concluded, the Charge-Sheet has been filed, and the case has been committed to trial. Therefore, no purpose would be served by keeping the Petitioner in continued custody, particularly when custodial interrogation is no longer required.

18. Opposing the grant of Bail, the learned APP for the State submitted that the Petitioner, a doctor at AIIMS Delhi, took undue advantage of the emotional and medical vulnerability of the Prosecutrix

in December 2024. Under the pretense of offering psychiatric care, the Petitioner asked the Prosecutrix to accompany him to his residence. She was semi-conscious at that time due to the medication administered to her whereafter, he sexually assaulted her, including through unnatural means. He submitted that even thereafter, though they both were residing in the apartment of the petitioner, he, under the promise of marriage, developed physical relations with her.

19. The learned counsel for the Prosecutrix, Respondent No.2 herein, vehemently opposes the grant of Bail to the Petitioner and submitted that the present case is not merely a dispute arising out of a failed relationship, however, the Petitioner's acts amounted to sexual assault and physical abuse. He submitted that the MLC corroborates these allegations. Moreso, the Petitioner tendered a written apology on 21.01.2025. The Prosecutrix, the learned counsel submitted, was never looking for money as alleged against her by the Petitioner, but is a victim at the hands of the petitioner.

20. Having perused the record and heard the learned counsel for the parties, what emerges from the material placed before this Court is a complex factual matrix wherein contradictory versions regarding the nature of the relationship between the Petitioner and the Prosecutrix must be carefully weighed.

21. In the present case, the relationship between the Petitioner and the Prosecutrix is undisputed. What is in dispute is the nature of that relationship. The Prosecutrix, aged approximately 39 years, is an educated adult who was previously married and is a mother to a child with special needs. The materials on record reveal that she admittedly resided with the Petitioner for approximately 15 days as part of their association, although the Prosecutrix claims that therefore, the relationship deteriorated and the Petitioner was not adhering to the promise of marrying her.

22. It is evident from the record that despite alleging that the Petitioner had sexually assaulted her in early December 2024, the Prosecutrix had failed to report any incident to the police and no explanation for the same has been put forth. In fact, the Prosecutrix continued to stay with him. During the period of 15 days, when the Prosecutrix resided with the Petitioner, even the family of the Petitioner stayed with them. However, no Complaint was made to anyone about the alleged forcible sexual assaults, by the Prosecutrix.

23. It was submitted by the learned APP that the Petitioner was referring to the Prosecutrix as his wife and even applied sindoor on her, which is indicative of the fact that he was giving false assurances of marriage to her. On the other hand, the learned counsel for the petitioner contended that it was a consensual/live-in relationship between the parties and no promise of marriage was ever made.

24. Suffice to say, the Prosecutrix, being a mature, educated and married woman, must be deemed to understand the how marriage rituals work. Nonetheless, the said allegations would be a matter of the trial.

25. Further, there is material placed on record which prima facie shows that the Petitioner and the Prosecutrix were in an active and consensual live-in relationship. Screenshots of WhatsApp chats,

travel plans, shared photographs, and other materials prima facie suggest mutual affection and cohabitation. In the MLC, certain contradictions are appearing as well. Although the Prosecutrix records allegations of prior incidents of sexual assault, however, it also records the consent of the Prosecutrix. Similarly, the so-called apology letter attributed to the Petitioner is also a matter of trial and cannot by itself determine the guilt or innocence of the accused at this stage.

26. Significantly, this Court has also been informed by the learned counsel for the petitioner that the Prosecutrix has lodged other FIR's of offences similar to the one in the present case, against other persons and also that some FIRs have been lodged against her, which are as follows:

SI. FIR Date Section(s) Police Complainant Accused Status No. No. Station 1 1099 29.08. 323/354/3 Malviya Reema Gaur Gurvinder Acquitted on /14 2014 80 IPC Nagar Singh 27.05.2023 2 1107 29.08. 323/342/3 Malviya Pooja Pruthy Khubtarin Acquitted on /14 2014 4 IPC Nagar Ahmed @ 23.05.2016 Reema Gaur 3 495/ 14.03. 376 IPC Malviya Khubtarin Mayank Pending trial 15 2015 Nagar Ahmed Ahuja (NDOH:

24.04.2025) 4 1674 01.09. 385/389/5 Malviya Naveed Khubtarin Pending trial /15 2015 06 IPC Nagar Anjum Ahmed, (NDOH:

Reema Gaur 29.05.2025) @ Jenny 5 156/ 01.04. 376 IPC Kalkaji Khubtarin Amarjeet Acquitted on 2010 2010 Ahmed Singh 25.10.2016 Chauhan 6 155/ 25.02. 365 IPC Vasant Reema Gaur Abhinav Cancellation 14 2014 Vihar Gaur on

27.09.2014 7 1514 19.12. 498A/406/ Vasant Reema Gaur Abhinav Cancellation /14 2014 34 IPC Vihar Gaur on 25.05.2017

27. Particularly, an extortion case (SI No.4) has been registered against the Prosecutrix, wherein it is alleged that she sought to extract money from the complainant therein and his family under threat of criminal implication.

28. Notably, the Charge-Sheet in the present case has been filed. The trial is yet to commence and is likely to take considerable time. The Petitioner, a 28 year old doctor serving in AIIMS, holds a permanent job and has no criminal antecedents. This Court also notes that he has cooperated with the investigation, and there is no material to show that he has attempted to abscond or tamper with evidence.

29. In view of the conspectus of facts and circumstances, the Petitioner is admitted to Regular Bail pending Trial in FIR No. 93/2025 dated 28.01.2025 for the offences under Section 64(1), 115(2), and 118 of the Bhartiya Nyay Sanhita, 2023 registered at the Police Station Hauz Khas, on his furnishing a personal bond in the sum of 50,000/- with two sureties in the like amount, subject to the satisfaction of the learned Trial Court / CMM / Duty Magistrate and further subject to the following conditions:-

i. The Petitioner shall not leave the NCT of Delhi without prior permission of the learned Trial Court. ii. The Petitioner shall immediately intimate the learned Trial Court by way of an affidavit and to the Investigating Officer regarding any change of residential address. iii. The Petitioner shall appear before the learned Trial Court as and when the matter is taken up for hearing. iv. The Petitioner is directed to give his mobile number to the Investigating Officer and keep it operational at all times. v. The Petitioner shall not contact, nor visit, nor offer any inducement, threat or promise to any of the Prosecution witnesses or other persons acquainted with the facts of case. vi. The Petitioner shall also not tamper with evidence nor otherwise indulge in any act or omission that is unlawful or that would prejudice the proceedings in the pending Trial.

30. It is made clear that no observations made above shall tantamount to be an expression on the merits of the Petitioner's case and they have been made for the purpose of consideration of Bail alone.

31. A copy of this Order be sent to the Jail Superintendent concerned for information and necessary compliance.

32. Accordingly, the present Bail Application stands disposed of.

SHALINDER KAUR, J MAY 30, 2025/FRK Click here to check corrigendum, if any