



CRL.OP(MD). No.6147 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: **11.11.2025**

PRESENT

THE HON'BLE MRS.JUSTICE S.SRIMATHY

CRL.OP(MD). No.6147 of 2025

Prabhakaran ... Petitioner

Vs.

The State rep by,
The Inspector of Police,
All Women Police Station,
Manaparai, Trichy District.
(Crime No.35 of 2024) ... Respondent / Complainant

PRAYER: Criminal Original Petition filed under Section 482 of BNSS
praying to enlarge the petitioner on anticipatory bail in connection with
the case in Crime No.35 of 2024 on the file of the respondent-police.

For Petitioner : Mr.M.N.Rajapanth

For Respondent : Mr.S.S.Manoj,
Government Advocate(Criminal Side)

For Intervenor/
Defacto Complainant : Mr.A.Joel Paul Antony



ORDER

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The petitioner, who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 417, 420, 506(i) of IPC and 351(2) of BNS in Crime No.35 of 2024 on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that the defacto complainant S. ~~XXXXX~~ had preferred a complaint on 11.08.2024 stating that she is a diploma graduate in general nursing and she is working in a hospital. She had studied up to 12th standard at ~~XXXXXXXXXXXXXXXXXXXX~~ and used to be friendly with the petitioner, who was studying with her even in same school. The friendship had developed into love. In the year of 2019, when she was working at Coimbatore Medical Centre, the petitioner met the complainant often and had sexual relationship with her several times with promise to marry her. But the petitioner family did not accept the love. Hence, both left their parental house on 08.08.2024 and went to Trichy to get married on 09.08.2024. They had rented a house in Trichy and stayed together. Meanwhile, the defacto complainant's father,



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had filed woman missing complaint at Vaiyampatti Police Station. On 09.08.2024 morning the petitioner had picked her up in a car and dropped her at her house, saying that the petitioner was receiving phone calls from his house. That night the petitioner and the defacto complainant were brought to Vaiyampatti Police and an inquiry was held. During the inquiry, the petitioner admitted they had a physical relationship and the petitioner promised to marry the petitioner after completing the Railway Board Exam. The complainant accepted the written statement both families came out of the Vaiyampatti Police. But, the relatives of the petitioner threatened to kill the complainant and petitioner in the station premises itself, if both are married since it is inter-caste marriage.

3. The contention of the petitioner is that the allegations levelled in the FIR are false and concocted. It is true that the petitioner and the complainant loved each other. After passing off a few months, the petitioner came to know that the complainant's character was not good because she had relationships with a few persons. Hence, the petitioner decided to come out of her relationship. As such, the petitioner



discontinued his love with the complainant long ago. At this juncture, the petitioner came to know that the complainant lodged the present complaint alleging that the petitioner by making a false promise to marry the complainant had sexual intercourse with her.

4. The further contention of the petitioner is that he is studying for a railway exam and that the complainant's actions caused him to experience mental stress, which caused him to get distracted from the said competitive exam in question. The petitioner didn't consider marrying a girl because of his lack of income and job. Marriage between the petitioner and the complainant may fail because of non-earning, already he is struggling for his day-to-day expenses. Even the petitioner's four square meals have been served by his parents. Already, the non-employment of the petitioner made his parents struggle to run a family. If both were married, it may cause huge mental pressure and struggle for the petitioner's parents.

5. The learned counsel appearing for the petitioner submitted that the petitioner has been falsely implicated in this case and he has not



committed any offence. He seeks this Court to grant anticipatory bail to

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the petitioner.

6. The learned Government Advocate (Criminal Side) strongly opposed to grant anticipatory bail to the petitioner, since the petitioner had committed the offence of promise to marry.

7. It is seen from the records that the petitioner had submitted before the Court, that he is ready to marry the defacto complainant and the case may be referred to Mediation. Hence, this Court directed the police not to arrest and referred the case to mediation. But it is reported that the mediation is not successful.

8. Hence this Court tried to settle the issue and directed the petitioner to file an affidavit that he would marry the defacto complainant. But the petitioner had not submitted the affidavit.

9. In the present case, the respondent had registered a case against the accused under Sections 417, 420, 506(i) of IPC and 351(2) of BNS.



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The section 318(1) of BNS (415, 417, 420 of IPC deals with cheating.

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10. The section 69 of BNS is enacted in BNS for the crime of sexual intercourse by deceitful means. Particularly false promise of marriage was considered as crime. There is no separate provisions to deal with the offence under IPC, but was dealt under section 375 / 376 i.e. rape or cheating. But under BNS is not considered as rape but it is considered as crime under false promise to marry. The section 69 is extracted hereunder:

“69. Whoever, by deceitful means or by making promise to marry to a woman without any intention of fulfilling the same, 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 inducement for, or false promise of employment or promotion, or marrying by suppressing identity.”

The said provision is having the following ingredients:

- i. By deceitful means
- ii. or by making promise to marry to a woman
- iii. without any intention to fulfilling the same
- iv. has sexual intercourse but the same is not



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amounting to rape

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The said provision is attracted if fraudulently by making a promise to marry without any intention of fulfilling the same has sexual intercourse with the woman.

11. The word “deceitful” is explained wherein inclusive explanation is given in the statue, wherein it includes

- i. inducement for,
- ii. or false promise of employment
- iii. or promotion
- iv. or marrying suppressing identity.

The phrase “inducement for” with comma would include promise to marry and have sexual intercourse.

12. In the present case, the said section 69 of BNS was not included, hence the respondent is directed to include the said section.

13. It is seen that the accused and the victim were in love with promise to marry, then there was a dispute, then also the accused with a promise to marry was having sexual relationship with the victim. Now



the petitioner is taking a stand that he cannot marry the victim. That too

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14. It is pertinent to record that the girls below 18 years are protected from sexual abuse under POCSO. The lady above 18 years and if married is protected by maintenance, granting residence etc. thereby until divorce the women is protected. Even after divorce the women is protected to live a decent life. Now a vulnerable section of women who are facing mental trauma by the concept of “live-in relationship” and are falling prey to the vulnerability of the concept of “live-in relationship”. Absolutely there is no protection at all.

15. Infact live-in relationship is a cultural shock to the Indian Society, but it is happening widely everywhere. The girls assume that they are modern and opt for live in relationship. But after some time when they realize that live-in relationship is not granting any protection as granted under marriage, the reality catches as fire and start burning them. And they caught in a web of modernity and cultural. Especially the said women are afraid of naming and shaming them.



16. The boys suddenly would take stand accusing the character of the girls. While having live-in relationship the boys would assume themselves as modern, but they slam the girls of their character for having live-in relationship, hence the boys also would be caught in a web of modernity and character assault of girls.

17. Infact this Court tried to mediate the parties. When the marriage could not be a solution, this Court tried to settle the issue by paying maintenance or victim compensation. This Court is bound to record the statement of one of the victims, while offering the maintenance or victim compensation, the victim refused to take the same stating that the men would brand her that she did for money or slept for money. The said statement would exhibit the gravity of the problem.

18. Hence this Court is of the considered opinion that the Courts ought to protect the women who are caught in the web modern and culture. It is pertinent to state that in ancient India eight types of marriages were in vogue. One among is Gandharva marriage which is love marriage. The live-in relationship may be recognised as Gandharva



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marriage / love marriage.

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19. In live-in relationship the women ought to be protected by granting the status of “wife” under Gandharva marriage / love marriage, so that the women in live-in relationship, even if it is under turbulence, may be provided with rights as “wife”.

20. If marriage is not possible then the men ought to face the wrath of legal provisions. Now the only section that grants protection to women is under section 69 of BNS and the men ought to face the wrath of the Section 69 of BNS.

21. In the present case, there is sexual intercourse with promise to marry. The victim either is entitled to recognise as wife. Or the accused may be charged with promise to marry. But the accused now refuse to marry. Hence left with no option the accused / petitioner is liable to be prosecuted under section 69 of BNS.



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22. Taking into consideration the facts and circumstances of the case, the nature and gravity of the offence, the specific overt act against the petitioner, and also since the allegation against the petitioner is promise to marry and there are *prima facie* evidence available, hence interrogation is necessary, hence this Court is not inclined to grant anticipatory bail to the petitioner at this stage.

23. Accordingly, this Criminal Original Petition is dismissed.

11.11.2025

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To

1. The Inspector of Police,
All Women Police Station,
Manaparai, Trichy District.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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S.SRIMATHY, J.

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