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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% ***Judgment pronounced on: 30.10.2026***

\# **CNR No.DLHC010380362026**

\+ **BAIL APPLN. 3355/2026**

AKSHAY ADITYA .....Petitioner

Through: Mr. Mohit Mathur (Sr. Adv) along with Ms. Vidha Datta Makhija (Sr. Adv) and Mr. Sanjeev Kumar Sharma, Mr. Girish Kumar, Mr. Anirudh Sharma, Mr. Aditya Kumar, Mr. Varun Kesharwani, Mr. Kishlay Kumar, Mr. Aman Mishra, Mr. Rajiv Dalal, Advs.

versus

THE STATE OF NCT OF DELHI AND ANR .....Respondents

Through: Mr. Hemant Mehla (APP) along with Mr. Mayank Chaudhary, Mr. Mohd. Naved, Advs.
Ms. Warisha Farasat (Sr. Adv) along with Mr. Akash Mohan Srivastav, Ms. Suvarna, Mr. Nandlal Singh, Advs. for Respondent No.2.
SHO Pankaj Kumar &SI Sikander (P.S. Hazrat Nizamuddin).

CORAM:
HON'BLE MR. JUSTICE SACHIN DATTA

JUDGMENT

Crl.M.A. 25093/2026 *(Exemption)*
Crl.M.A. 25094/2026 *(Exemption)*
Crl.M.A. 28816/2026 *(Exemption)*
Crl.M.A. 28817/2026 *(Exemption)*

1. The present applications seek exemption from filing certified, legible

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copies of the annexures; permission to file lengthy synopsis; and leave to place on record documents relating to the subsequent developments in the present matter.

2. The said applications are allowed, subject to all just exceptions.

3. The additional documents are taken on record.

BAIL APPLN. 3355/2026 & Crl.M.A. 25092/2026

Crl.M.A. 30416/2026 *(filed on behalf of R-1 seeking vacation of interim protection granted to the applicant vide order dated 17.08.2026)*

4. The present application has been filed under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter referred to as "BNSS") seeking anticipatory bail, in connection with FIR No. 0164/2026 dated 29.07.2026, under Sections 64(1)/69/351(2)/115(2) of the Bharatiya Nyaya Sanhita, 2023 (hereinafter referred to as "BNS"), registered at P.S. Hazarat Nizamuddin. Section 64(2)(m) of the BNS has since been added on the basis of the material collected during the investigation.

5. By way of Crl.M.A. 30416/2026, the State seeks vacation of interim protection granted to the applicant *vide* order dated 17.08.2026 passed in the present proceedings.

Prosecution Case

6. The complainant is an adult. She states that the applicant, a post-graduate student, pursuing his Masters in surgery from Patna Medical College Hospital contacted her through Instagram in the first week of November, 2025 and repeatedly represented that he would marry her.

7. Her complaint specifically refers to the incidents on the following dates: (i) on 21.12.2025, a hotel in Vaishali, Ghaziabad (the room having

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been booked by the complainant for the applicant's stay), he assured her that he genuinely intended to marry the complainant and that the marriage would be solemnized with the consent of both the families. On the said date, despite her clear resistance and against her will, the applicant is stated to have forcibly established physical relations with the complainant;

(ii) on 08.03.2026, after meeting her at Sunder Nursery, New Delhi, the applicant is stated to have taken the complainant, on the pretext of introducing her to his friends, to a secluded house nearby, where he restrained and overpowered her and forcibly committed sexual intercourse against her will and without her consent. Thereafter, he repeatedly banged his head against the wall and said that "*kisiko mat batana nahin to main mar jaunga*". He then insisted her to take an injection, which she refused to, and thereafter, he snatched her mobile phone to prevent her from contacting her family members. It is further alleged that on 10.03.2026, the applicant retracted from his promise of marriage and attempted to terminate the relationship, and thereafter threatened to commit suicide if she disclosed the incident to anyone;

(iii) on 11.04.2026, at the same hotel at Vaishali, Ghaziabad, the applicant attempted to compel the complainant to consume an unknown tablet and, upon her refusal, pressurised her to consume alcohol, and attempted to establish physical relations against her wishes. The complainant became emotional and distressed, started crying and warned him that she would immediately inform her family members if he did not stop. She also called her elder sister; however, the applicant forcibly prevented her from speaking further and became aggressive and violent. He broke a glass bottle inside the hotel room and repeatedly threatened that he

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would end his life if she disclosed the incidents to anyone or insisted upon marriage; and

(iv) on 03.06.2026, during her visit to Patna he again assaulted her, voluntarily caused injuries and forcibly established physical relations against her will. He also criminally intimidated her and threatened her with serious consequences if she disclosed the incidents or remained in Patna.

8. The FIR further states that the applicant, thereafter, continued to send her messages and make video calls, threatening self-harm (on one occasion, showing her, during a video call, blood flowing from his wrist) to dissuade her from going to the police, and that after she disclosed the matter, the members of his family, including his father and his paternal uncle, pressurised and threatened her and her family (on 04.06.2026, 17.06.2026, 25.06.2026 and 11.07.2026).

9. The complainant's statement under Section 183 of BNSS has been recorded before the learned Magistrate, wherein, as per the Status Report dated 14.09.2026, she has supported the version in her complaint. She was also medically examined *vide* MLC No. 4632/2026, though she declined internal examination. The complainant, thus, alleges that the relationship was induced by a promise of marriage which the applicant did not intend to keep.

10. Importantly, it is specifically alleged that sexual intercourse took place by force, as noticed hereinabove. The FIR, accordingly, invokes both Section 64 of the BNS, which punishes rape, and Section 69 of the BNS, which punishes sexual intercourse by deceitful means or upon a promise to marry made without any intention of fulfilling the same.

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Previous Orders

11. The applicant was taken into custody at Patna (at Patna Medical College Hospital) on 30.07.2026. The learned Chief Judicial Magistrate, Patna, by way of an order passed on the same day, declined transit remand on procedural grounds, *inter alia*, (i) the absence of a warrant of arrest or written delegation memo under Section 55 of BNSS; and (ii) non- supply of written grounds of arrest, and (iii) absence of an updated Case Diary. *Vide* the said order dated 30.07.2026, the applicant was released subject to him furnishing a personal bond of Rs.10,000/-, along with an undertaking to join investigation before the I.O. at P.S. Hazarat Nizamuddin, Delhi within 30 days, or to appear before the Court of competent jurisdiction at Delhi as and when directed.

12. The order dated 30.07.2026, passed by the learned Chief Judicial Magistrate, Patna, *inter alia*, reads as under:

> The accused, Akshay Aditya, is ordered to be released forthwith from police custody in connection with this case (if not wanted or required in any other case), subject to his furnishing a personal bond of ₹10,000/- along with an undertaking on affidavit that he shall join the investigation before the competent Investigating Officer at P.S. Hazrat Nizamuddin, Delhi, within 30 days. or appear before the Court of competent jurisdiction at Delhi as and when directed.

13. The petitioner's application for anticipatory bail (in Bail Matter No. 2382/2026) was dismissed *vide* order dated 10.08.2026 passed by the learned Additional Sessions Judge (Special Fast Track Court), South-East District, Saket Courts, Delhi. The learned ASJ held that the Whatsapp chats placed before him showed that the applicant "categorically admitted his fault to the complainant"; the chats, *prima facie*, showed "falsity of the defence taken by the applicant"; that he induced her into a relationship by projecting

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marriage without intending it; and that the mobile phone is required for the investigation. The said order, *inter alia*, observed as under:

> *"The facts and the documents placed in this case on record, prima facie, disclose that allegations are serious in nature and if anticipatory bail is granted, it may seriously prejudice the investigation and the interest of justice. The contents of complaint; whatsapp chats produced by the prosecutrix disclose that applicant had projected the complainant that he was intending to have a serious relationship with her. The whatsapp chats between complainant and applicant further shows that applicant was projecting to the complainant and showing her picture of having children with her.* ***The whatsapp chats between applicant and complainant further shows prima facie falsity of the defence taken by the applicant in this application whereby he has shifted entire burden upon the complainant. The whatsapp chats show that applicant categorically admitted his fault to the complainant. The material on record produced by the prosecution and complainant prima facie show that applicant induced the prosecutrix for marriage without any intent to keep said promise and thereafter, he entered into physical relationship with her several times at various places and thereafter, he resiled from the said promise. In this case, admittedly, the prosecutrix and accused met several times at various places and they were in touch with each other through whatsapp chats and other social media platforms. Now in order to ascertain the complete facts and to conduct proper investigation, the custodial interrogation of applicant may be required. Further custody of applicant may also be required for purpose of collecting the digital and other evidence including the mobile phone of applicant****.* *If applicant is granted bail at this stage, possibility of him causing disappearance of evidence and influencing of witnesses cannot be ruled out. The judgments relied upon by the applicant are not applicable to the facts of the present case as the facts of this case are totally different from the facts mentioned in the judgments relied upon by the applicant. Accordingly, the anticipatory bail is dismissed."*

14. *Vide* order dated 17.08.2026 passed in the present proceedings, this Court called for a comprehensive reply from the State and directed the

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applicant to join investigation on 19.08.2026 with all his electronic devices, and directed that, in the interregnum, "*no further coercive steps be taken against the applicant till the next date of hearing*". The applicant was also restrained from contacting, directly or indirectly, the prosecutrix or her family members. The said order, *inter alia*, reads as under:

> 10. It has been contended from their side that custodial interrogation of the applicant is imperative for conducting investigation in an effective manner. They state that if applicant is granted any protection, there is every likelihood of his getting in touch with the complainant and her family members and intimidating and threatening them, which may result in obstruction to the fair course of investigation.
>
> 11. Let a comprehensive reply be filed by prosecution by next date of hearing with advance copy to applicant. Learned counsel for prosecutrix would also be at liberty to file separate reply, if any.
>
> 12. Applicant is directed to join investigation and to assist the investigation. After ascertaining the availability and mutual convenience, it is directed that he would join investigation on 19.08.2026 at 4 p.m. and would also bring all his electronic devices and mobile, etc., in order to facilitate the on-going investigation. In the interregnum, let no further coercive steps be taken against the applicant till next date of hearing.
>
> 13. Under no circumstances, the applicant would make any endeavour, direct or indirect, to contact the prosecutrix or her family member. Any such attempt would be viewed seriously and would entail outright dismissal of the present application.

15. Thereafter, the applicant is stated to have joined the investigation on several occasions (according to the applicant, on 19.08.2026, 20.08.2026, 21.08.2026, 22.08.2026, 24.08.2026, 08.09.2026 and 10.09.2026).

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16. Subsequently, *vide* order dated 17.09.2026 passed in the present proceedings, the matter was adjourned to 17.11.2026 and the interim orders were directed to continue. Thereafter, the State has filed an application [being Crl.M.A. 30416/2026] seeking vacation of the interim protection.

Status Report Filed By The State

17. Status Report dated 14.09.2026, filed by the State, records that, during the interrogation, the applicant acknowledged his relationship and meeting with the complainant on various occasions. The said Status Report, *inter alia*, records as under:

> 17.During the interrogation, the petitioner acknowledged his relationship and meetings with the complainant on several dates which are material to the investigation. His stated version records meetings/physical relations as follows:
>
> i. 21.12.2025 at Mahagun Sarovar Hotel, Ghaziabad;
>
> ii. 06.02.2026 at Lemon Tree Hotel, Patna;
>
> iii. 08.03.2026, visited Sunder Nursery, New Delhi, later at Radisson Blu Hotel, Ghaziabad, while disputing sexual intercourse on the said date;
>
> iv. 11.04.2026 at Mahagun Sarovar Hotel, Ghaziabad, while disputing the attempt to establish sexual intercourse on the said date; and
>
> v. 03.06.2026 at Lemon Tree Hotel, Patna.

18. The Status Report also refers to the information gathered on the basis of the Call Detail Records (CDRs) of the parties, and states as under:

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24. That the CDRs of the petitioner (8884852380, 6200345356) and the complainant (********092) have been obtained from the concerned service providers. Analysis thereof reflects the petitioner and the complainant at similar locations on various material dates, namely 21.12.2025, 06.02.2026, 08.03.2026, 11.04.2026 and 03.06.2026.

25. The petitioner has specifically disputed the incident alleged near Sunder Nursery on 08.03.2026 and has not identified the premises referred to by the complainant.

26. The relevant CDR on 08/03/2026 is as follows:

Sl. No.	Complainant's Location	Petitioner's Location
1.	a. Time: 20:03, Lodhi Hotel, Pragati Vihar, CGO Complex, New Delhi.	a. Time: 19:52, Oberoi Hotel, Zakir Hussain Marg, New Delhi. (6200345356)
		b. Time: 20:44, Pole No. 1, Opp. Quality Rest, New Delhi-110001 (8884852380).
		c. Time: 21:10, Regal Building, Near Allahabad Bank, C.P., NE Delhi. (6200345356)
		d. Time: 21:15, Regal Building, Near Allahabad Bank, C.P., NE Delhi. (6200345356)
	b.Time:22:24, Kaushambi, near Ratan Apartment.	d. Time: 22:19, Kaushambi, Ghaziabad.

19. The said Status Report further states as under:

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27. That the Mahagun Sarovar Portico Suites, Ghaziabad, has supplied hotel records pertaining to the dates (21/12/2025 and 11/04/2026) available in its records, along with certified copies of the relevant entry/exit register and identity documents of the petitioner and the complainant.

28. That the Radisson Blu Towers Hotel has supplied records pertaining to 08.03.2026 reflecting an entry in the name of the petitioner with "+1 guest". The identity document of the complainant was not available with the hotel.

29. That the Lemon Tree Hotel has supplied hotel records pertaining to the dates (06/02/2026-07/02/2026 and 03/06/2026-05/06/2026) available in its records, along with certified copies of identity documents of the petitioner and the complainant.

30. The concerned hotels have stated that CCTV footage for the relevant dates is no longer available.

31. The electronic record of the petitioner remains under verification; the completeness and continuity of the communications are yet to be examined; the circumstances concerning the earlier mobile phone require verification; the incident alleged near Sunder Nursery requires further investigation; and further documentary material sought from the concerned establishments is awaited.

32. That the version of events disclosed by the petitioner during investigation and the narrative advanced by him in the present petition are, at material places, inconsistent with the contemporaneous electronic communications and other material collected during investigation. The contradictions are not merely peripheral in nature but relate to material circumstances surrounding the meetings, physical relations, subsequent communications and conduct of the petitioner.

33. The circumstances surrounding the deletion, the availability of any residual/cloud/server data and the extent of the electronic record that can still be recovered are matters requiring further forensic examination. The conduct of the petitioner in deleting material electronic communications, prima facie, raises a serious apprehension regarding preservation and possible suppression of relevant evidence.

34. That the custodial interrogation and police custody of the petitioner is necessary for a fair, complete and effective investigation, particularly for confronting him with the material collected, investigating the circumstances surrounding deletion/non-availability of electronic evidence, tracing and securing the remaining digital record, and verifying the contradictions between his version and the contemporaneous material.

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20. Crucially, as regards the electronic evidence, the Status Report records that the applicant has stated that his earlier mobile phone had been stolen on the evening of 04.06.2026, and that the Investigating Agency has found circumstances indicating that he had deleted the Instagram communications exchanged between the parties. The relevant paragraphs of the Status Report read as under:

> 19. That during investigation, the petitioner produced his present mobile phone containing certain WhatsApp communications exchanged with the complainant. The said mobile phone has been taken into police possession through a seizure memo and is being sent to FSL for expert opinion. The petitioner stated that his earlier mobile phone had been stolen on the evening of 04.06.2026 and that consequently only limited WhatsApp communications could thereafter be restored/backed up.
>
> 20. That the investigation has further revealed circumstances indicating that the petitioner deleted Instagram communications exchanged between the parties, which communications are material to the present investigation.

21. As regards the contents of the communications collected during investigation, the Status Report further states as under:

> 22. Certain communications forming part of the material supplied during investigation contain expressions attributed to the petitioner which prima facie reflect in the context of the allegations made by the complainant, including expressions of remorse, express admissions of his acts, omissions and corresponding responsibility and distress concerning the effect of his conduct upon the complainant and her family. The communications further contain repeated expressions attributed to the petitioner concerning self-harm/suicide, which, prima facie, appear to have been employed as a means of exerting emotional pressure upon and dissuading the complainant from disclosing the incidents or approaching the authorities.

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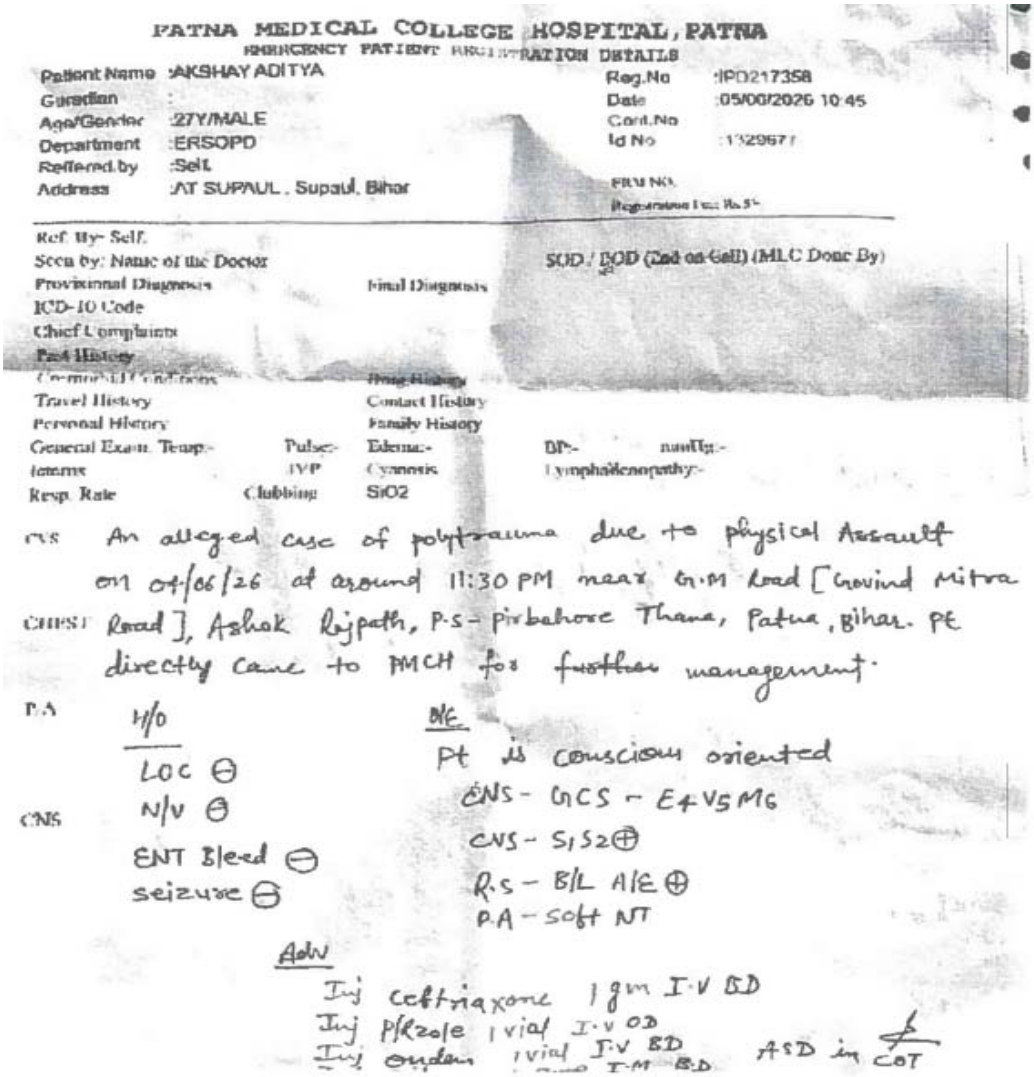
Submission On Behalf Of The Petitioner/ Applicant

22. Learned counsel for the petitioner submits that the relationship was consensual and known to both the families, and that the applicant and the complainant belonged to the same native place. It is submitted that the complainant booked the hotel rooms in her own name and at her own expense, and travelled to Patna twice (on 06.02.2026 and 03.06.2026) to meet him. It is further pointed out that, in April, 2026, the complainant sent a message to him setting out "three options", namely, (i) to remain exclusively with him for six months; (ii) to marry within six months; or (iii) to remain with him permanently without marriage.

23. The petitioner controverts the allegation of forcible sexual intercourse. It is further submitted that the petitioner insisted on marriage only with the consent of both the families, a condition which the complainant accepted from the start. It is submitted that a promise made in good faith, which could not be fulfilled, is not a false promise. The petitioner submits that his earlier phone was snatched from him in an assault on the night of 04.06.2026 at about 11:00 P.M., by unknown persons who threatened him with a knife, for which he was examined at Patna Medical College Hospital, Patna (*vide* MLC bearing ERS No. 5770).

24. For that purpose, the petitioner relies upon the following certificate/document issued by the Patna Medical College Hospital (Emergency patient):

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PATNA MEDICAL COLLEGE HOSPITAL, PATNA
EMERGENCY PATIENT REGISTRATION DETAILS

Patient Name :AKSHAY ADITYA
Guardian :
Age/Gender :27Y/MALE
Department :ERSOPD
Reffered by :Self
Address :AT SUPAUL . Supaul. Bihar

Reg.No :IPD217358
Date :05/06/2026 10:45
Card.No
Id No :1329677

Ref. By- Self.
Seen by: Name of the Doctor
Provisional Diagnosis
Final Diagnosis
ICD-10 Code
Chief Complaints
Past History
Travel History
Contact History
Personal History
Family History
General Exam. Temp:- Pulse:- Edema:-
Icterus JVP Cyanosis
Resp. Rate Clubbing SiO2

SOD / DOD (Cod on Cell) (MLC Done By)

CVS An alleged case of polytrauma due to physical Assault on 04/06/26 at around 11:30 PM near G.M Road [Govind Mitra CHEST Road], Ashok Rajpath, P.S- Pirbahore Thana, Patna, Bihar. Pt directly came to PMCH for further management.

P.A H/O
LOC ⊖
N/V ⊖
CNS ENT Bleed ⊖
seizure ⊖

O/E
Pt is conscious oriented
CNS- GCS - E4V5M6
CVS- S1S2⊕
R.S - B/L AE⊕
P.A - Soft NT

Adv
Inj ceftriaxone 1gm I.V BD
Inj Pikzole 1 vial I.V OD
Inj ondan 1 vial I.V BD
I.M B.D
ASD in COT

25. It is emphasised that the petitioner has joined the investigation on several dates, answered all questions put to him, undergone medical/potency examination, participated in the preparation of pointing-out memos, and surrendered his present mobile phone (which has been seized).

26. It is stated that he also produced his other devices and furnished the credentials of his Gmail and Instagram accounts to the Investigating Officer; that the Instagram conversations were deleted much prior to the registration of the FIR; and that the complainant has not produced her own mobile phone, which would contain the complete record of the communications. It

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is, therefore, contended that custodial interrogation is not required.

27. It is further submitted that the FIR is a counter-blast to the Informatory Petitions (Nos. 1926/2026 and 2024/2026) and Criminal Complaint No. 6685/2026 filed by the applicant before the learned CJM, Patna, Sadar, against the complainant and her family members, alleging extortion, blackmail and coercion.

Submissions on Behalf of the State And The Complainant

28. Learned APP for the State and learned counsel for the respondent no.2, submit that the present case is one of forcible sexual intercourse on identified occasions, supported by the complainant's statement under Section 183 of BNSS and by independent records (CDRs /location and hotel records) of the applicant's presence with the complainant on the material dates. Reliance is placed on certain messages sent by the applicant which are alleged to be virtually in the nature of an admission of guilt. In this regard, attention is drawn to the applicant's messages where he speaks of having "ruined it for us" and having "destroyed a family". Specific attention is drawn to the following messages:

> **Contact (+91 88848 52380 / Akshay)** *(prior)* I'm sorry, Mahadev, for destroying so many things...
>
> **Contact (+91 88848 52380 / Akshay)** *(3:03 PM)* I just pray everything reverses and you become okay... I know I have committed the biggest sin of my lifetime. I will try to repay it my whole life — maybe even that won't be enough...
>
> **Contact (+91 88848 52380 / Akshay)** *(3:03 PM)* I just pray that I get the punishment I deserve — no one else should suffer, I should be the one getting all the wrongs and the punishment... Don't worry, I won't play any emotional card... but I want to suffer now, just to fix and lighten myself a bit.
>
> **Contact (+91 88848 52380 / Akshay)** *(3:03 PM)* Forever sorry, forever apologetic to you and your family. I don't know right now what I should do, so... sorry.

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Monday, 9 March

You ( ) *(12:22 AM)* [She/I] left.

Contact (+91 88848 52380 / Akshay) *(9:45 AM)* I am sorry.

Contact (+91 88848 52380 / Akshay) *(9:45 AM)* Take care.

Contact (+91 88848 52380 / Akshay) *(9:46 AM)* I think I have ruined it for us, I guess.

Contact (+91 88848 52380 / Akshay) *(9:46 AM)* I'm talking about this visit.

***

You ( ) *(10:27 PM)* I told him I'm fine.

Contact (+91 88848 52380 / Akshay) *(10:27 PM)* I have destroyed a family.

Contact (+91 88848 52380 / Akshay) *(10:27 PM)* Not just a girl.

You ( ) *(10:27 PM)* I even cracked a joke.

Contact (+91 88848 52380 / Akshay) *(10:27 PM)* I hate myself.

You ( ) *(10:27 PM)* Now he is ok.

Contact (+91 88848 52380 / Akshay) *(10:27 PM)* I hate myself.

29. Learned APP for the State also emphasised the sudden disappearance of the mobile device of the petitioner and the deletion of the Instagram communications. It is submitted that the circumstances surrounding the alleged loss of the earlier handset, the extent of the deletion and the recoverability of the data are matters requiring custodial interrogation and confrontation of the applicant with the material collected.

30. Reliance has been placed on ***Sumitha Pradeep v. Arun Kumar C.K.***, (2022) 17 SCC 391 and ***P. Krishna Mohan Reddy v. State of Andhra Pradesh***, 2025 INSC 725, to contend that the mere fact that the applicant has joined investigation does not entitle him to anticipatory bail.

31. In the application seeking vacation of interim protection, filed on behalf of the State, it has been stated as under :

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10. That the Applicant has stated that his earlier mobile handset, which admittedly covered the relevant period of the alleged incidents and communications, was stolen on 04.06.2026. According to the Applicant, only limited WhatsApp communications could thereafter be restored or backed up. Thus, the source device containing potentially material communications for the relevant period remains unavailable and the circumstances surrounding its alleged loss/theft, the data contained therein and the possibility of recovery of such data require further investigation.

11. That the investigation has further revealed circumstances indicating that the Applicant had deleted Instagram communications exchanged between himself and the complainant. The extent and circumstances of such deletion, the device/account from which the deletion occurred and the possibility of recovery of residual, cloud or server-side data are matters which require further forensic examination.

12. That the alleged deletion/non-availability of electronic communications assumes particular significance in the present case because the contemporaneous communications between the parties are themselves material to the investigation. The complainant has furnished WhatsApp transcripts and Instagram conversations along with the requisite certificate under the Bharatiya Sakshya Adhiniyam, 2023. These materials are being examined in conjunction with the source electronic material, seized device, CDR/location records, hotel records, travel/payment records, audio recordings and other statements and documents collected during investigation.

13. That the investigation has therefore moved beyond a situation where the mere presence or absence of the Applicant at a particular location is in issue. The Investigating Agency is required to reconstruct and correlate the complete digital and physical sequence of events, including the communications preceding and following the material meetings, the source and continuity of the electronic record, the circumstances of the alleged deletion, and the movements and locations of the parties.

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14. That there are substantial objective material independently corroborating material portions of the prosecution chronology. The Applicant does not dispute his relationship with the complainant and has acknowledged meetings with her on several material dates and physical relations on certain occasions. The CDR/location material places the parties at corresponding or proximate locations on various material dates. The concerned hotels have also supplied records concerning the presence of the Applicant and the complainant.

15. That the aforesaid material is not being relied upon by the State as proof of guilt at this stage. It is being relied upon for the limited but important purpose of demonstrating that the investigation has yielded objective material which requires further verification and that the Applicant's version requires examination against contemporaneous electronic and documentary evidence.

16. That the incident dated 08.03.2026 is particularly material in this regard. The complainant has alleged that after meeting the Applicant at Sunder Nursery, she was taken to a secluded premises and was subjected to forcible sexual intercourse, besides being threatened and prevented from contacting her family. The complainant has also produced a video stated to have been recorded at approximately 8:05 PM on 08.03.2026 at Sunder Nursery showing herself with the Applicant.

17. That the CDR/location material also reflects the presence and movement of the Applicant and the complainant at corresponding locations on the said date, followed by their presence in/around Kaushambi, Ghaziabad. Further, the Radisson Blu Towers Hotel has supplied a record reflecting entry in the name of the Applicant with "+1 guest". The Applicant, while admitting the meeting at Sunder Nursery, disputes the subsequent occurrence alleged by the complainant and has not identified the premises referred to by her.

18. That the aforesaid circumstances render the events of 08.03.2026 an unresolved and material part of the investigation. The route and movements of the parties, the premises visited after Sunder Nursery, the relevant electronic communications and the surrounding circumstances are required to be further investigated and reconciled with the objective material already collected.

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19. That, significantly, the version disclosed by the Applicant during investigation is stated to be inconsistent at material places with contemporaneous electronic communications and other material collected during investigation. The contradictions concern not merely peripheral matters but the meetings between the parties, physical relations, subsequent communications and the conduct of the Applicant.

20. That the communications collected during investigation also contain statements attributed to the Applicant which, prima facie, reflect expressions of remorse, admissions concerning his acts and omissions and corresponding responsibility, apart from repeated expressions concerning self-harm/suicide. The latter, prima facie, appear in the context of the allegations to have been employed as a means of exerting emotional pressure upon and dissuading the complainant from disclosing the incidents or approaching the authorities.

REASONING AND CONCLUSION

32. The legal position is well-settled that grant of anticipatory bail is an extraordinary privilege to be granted only in exceptional cases. In this regard, reference may be made to the judgment of the Supreme Court in ***Jai Prakash Singh vs. State of Bihar***, (2012) 4 SCC 379, wherein, it has, *inter alia*, been observed therein as under:

> *"**13.** There is no substantial difference between Sections 438 and 439 CrPC so far as appreciation of the case as to whether or not a bail is to be granted, is concerned. **However, neither anticipatory bail nor regular bail can be granted as a matter of rule. The anticipatory bail being an extraordinary privilege should be granted only in exceptional cases**. The judicial discretion conferred upon the court has to be properly exercised after proper application of mind to decide whether it is a fit case for grant of anticipatory bail.*
>
> ***14.** In State of M.P. v. Ram Kishna Balothia [(1995) 3 SCC 221 : 1995 SCC (Cri) 439 : AIR 1995 SC 1198] this Court considered the nature of the right of anticipatory bail and observed as under : (SCC p. 226, para 7)*
>
> > *"7. … **We find it difficult to accept the contention that Section 438 of the Code of Criminal Procedure is an integral part of Article 21.** In the first place, there was no provision similar to*

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> *Section 438 in the old Criminal Procedure Code. … Also anticipatory bail cannot be granted as a matter of right. It is essentially a statutory right conferred long after the coming into force of the Constitution. It cannot be considered as an essential ingredient of Article 21 of the Constitution. And its non-application to a certain special category of offences cannot be considered as violative of Article 21."*
>
> ***15.*** *While deciding the aforesaid cases, this Court referred to the* ***41st Report of the Indian Law Commission dated 24-9-1969 recommending the introduction of a provision for grant of anticipatory bail wherein it has been observed that "power to grant anticipatory bail should be exercised in very exceptional cases"****.*
>
> ***
>
> ***19.*** *Parameters for grant of anticipatory bail in a serious offence are required to be satisfied and further while granting such relief, the court must record the reasons therefor.* ***Anticipatory bail can be granted only in exceptional circumstances where the court is prima facie of the view that the applicant has falsely been enroped in the crime and would not misuse his liberty****."*

(emphasis supplied)

33. In ***Nikita Jagganath Shetty v. State of Maharashtra***, 2025 SCC OnLine SC 1489, the Supreme Court observed as under:

> "***18.*** *This Court, in numerous judgments, has held that* ***anticipatory bail is an exceptional remedy*** *and ought not to be granted in a routine manner.* ***There must exist strong reasons for extending indulgence of this extraordinary remedy to a person accused of grave offences****. …"*

(emphasis supplied)

34. In ***P. Chidambaram vs. Directorate of Enforcement***, (2019) 9 SCC 24, it was, *inter alia*, observed as under:

> "***69.*** *Ordinarily, arrest is a part of procedure of the investigation to secure not only the presence of the accused but several other purposes.* ***Power under Section 438 CrPC is an extraordinary power and the same has to be exercised sparingly. The privilege of the pre-arrest bail should be granted only in exceptional cases****. The judicial discretion conferred upon the court has to be properly exercised after application of mind as to the nature and gravity of the accusation; possibility of the applicant fleeing justice and other factors to decide whether it is a fit case for grant of anticipatory bail.* ***Grant of anticipatory bail to some***

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> ***extent interferes in the sphere of investigation of an offence and hence, the court must be circumspect while exercising such power for grant of anticipatory bail. Anticipatory bail is not to be granted as a matter of rule and it has to be granted only when the court is convinced that exceptional circumstances exist to resort to that extraordinary remedy***."
>
> (emphasis supplied)

Custodial Interrogation

35. As noted above, it has been strongly contended by the applicant that there is no need for his custodial interrogation, as he has joined the investigation on several dates, answered all questions put to him, undergone medical/potency examination, participated in the preparation of pointing-out memos, and surrendered his present mobile phone (which has been seized). With regard to this contention, it would be apposite to make a reference to ***Sumitha Pradeep v. Arun Kumar C.K.***, (2022) 17 SCC 391, wherein it has been, *inter alia*, held as under:

> "***12.*** *We are dealing with a matter wherein the original complainant (appellant herein) has come before this Court praying that the anticipatory bail granted by the High Court to the accused should be cancelled. To put it in other words, the complainant says that the High Court wrongly exercised its discretion while granting anticipatory bail to the accused in a very serious crime like Pocso and, therefore, the order passed by the High Court granting anticipatory bail to the accused should be quashed and set aside. In many anticipatory bail matters, we have noticed one common argument being canvassed that no custodial interrogation is required and, therefore, anticipatory bail may be granted.* ***There appears to be a serious misconception of law that if no case for custodial interrogation is made out by the prosecution, then that alone would be a good ground to grant anticipatory bail****. Custodial interrogation can be one of the relevant aspects to be considered along with other grounds while deciding an application seeking anticipatory bail.* ***There may be many cases in which the custodial interrogation of the accused may not be required, but that does not mean that the prima facie case against the accused should be ignored or overlooked and he should be granted anticipatory bail. The first and foremost thing that the court hearing an anticipatory bail application should consider is the prima facie case put up against the accused. Thereafter, the nature***

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> ***of the offence should be looked into along with the severity of the punishment. Custodial interrogation can be one of the grounds to decline anticipatory bail. However, even if custodial interrogation is not required or necessitated, by itself, cannot be a ground to grant anticipatory bail.***"
>
> (emphasis supplied)

36. The same principle has been recently reiterated by the apex Court in ***P. Krishna Mohan Reddy v. State of Andhra Pradesh***, 2025 INSC 725, in the following terms:

> "*21. It was sought to be argued that the petitioners have already joined the investigation and are fully cooperating with the investigating agency and therefore, there is no need for custodial interrogation.*
> *22.* ***The petitioners might have been cooperating with the investigation and they might have been interrogated also by the investigating agency so far but, at the same time, we should not overlook the fact that by grant of anticipatory bail, we may come in the way of the investigating agency if at all it wants custodial interrogation****.*
> *23. As held by this Court in Sumitha Pradeep vs. Arun Kumar C.K. &Anr. reported in (2022) 17 SCC 391 that* ***it would be preposterous as a proposition of law to say that if custodial interrogation is not required that by itself is sufficient to grant anticipatory bail****. Even in cases where custodial interrogation may not be required the court is obliged to consider the entire case put up by the State, more particularly, the nature of the offence, the punishment provided in law for such offence etc.*
> *24.* ***It is needless to say that for the purpose of custodial interrogation, the investigating agency has to make out a prima facie case at the time when remand is prayed for****. Whether any case for police remand is made out or not, it is for the Court concerned to look into.*"
>
> (emphasis supplied)

37. As such, the Supreme Court has gone to the extent of saying that it would be preposterous as a proposition of law to say that if custodial interrogation is not required, that by itself is sufficient to grant anticipatory bail.

38. In any event, the mere fact that an accused has joined investigation pursuant to an interim order does not, by itself, foreclose a subsequent

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requirement for custodial interrogation, particularly where the investigation thereafter throws up specific circumstances requiring confrontation and recovery. Therefore, the *prima facie* case for the custodial interrogation as put forth by the prosecution in the terms hereinabove cannot be lost sight of.

39. Furthermore, the legal position is well-settled that the custodial interrogation is qualitatively more elicitation-oriented than questioning a suspect in whose favour the interim directions have been issued. In this regard, reference can be made to the following observations passed by the Supreme Court in ***State v. Anil Sharma***, (1997) 7 SCC 187:

> *"**6.We find force in the submission of the CBI that custodial interrogation is qualitatively more elicitation-oriented than questioning a suspect who is well ensconced with a favourable order under Section 438 of the Code. In a case like this effective interrogation of a suspected person is of tremendous advantage in disinterring many useful informations and also materials which would have been concealed. Success in such interrogation would elude if the suspected person knows that he is well protected and insulated by a pre-arrest bail order during the time he is interrogated. Very often interrogation in such a condition would reduce to a mere ritual**. The argument that the custodial interrogation is fraught with the danger of the person being subjected to third-degree methods need not be countenanced, for, such an argument can be advanced by all accused in all criminal cases. The Court has to presume that responsible police officers would conduct themselves in a responsible manner and that those entrusted with the task of disinterring offences would not conduct themselves as offenders."*
>
> (emphasis supplied)

Nature and Gravity of Allegation

40. What weighs heavily with the Court is that the allegation in the FIR is one of forcible sexual intercourse, against the will of the complainant, on identified occasions (21.12.2025, 08.03.2026 and 03.06.2026), coupled with an attempted act of the same kind on 11.04.2026, and not merely of sexual intercourse induced by a false promise of marriage.

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41. The legal position is well-settled to the effect that consent is vitiated by a promise of marriage only if the promise (i) was false when made; (ii) was given in bad faith; (iii) was with no intention of being adhered to; and (iv) bore a direct nexus to the woman's decision to engage in the act. This has been affirmed by the Supreme Court in ***Pramod Suryabhan Pawar v. State of Maharashtra***, (2019) 9 SCC 608.

42. The FIR records the specific version of the complainant that on three of the enumerated dates (21.12.2025, 08.03.2026 and 03.06.2026), the applicant overpowered the complainant and had sexual intercourse with her, against her will.

43. It is further stated that he used threats of self-harm to silence the complainant, and that an injection, an unknown tablet and alcohol were sought to be pressed upon her in the course of these meetings. These circumstances, if established, lend support to the complainant's version that her will was overborne. The core allegation, therefore, is that on identified occasions sexual intercourse took place without her consent, which falls squarely within Section 64 BNS.

44. Pertinently, where consent itself is denied on identified occasions, the question whether the consent was procured by false promise does not arise. To that effect, it must be noted that Section 69 of the BNS, which penalises sexual intercourse procured by deceitful means or on a promise of marriage made without any intention of fulfilling it, operates only where the intercourse could not be ordinarily classified as rape under Section 64 of the BNS. Section 69 of the BNS reads as follows:

> "*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***

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> ***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.*"
>
> (emphasis supplied)

45. Accordingly, Section 69 of the BNS is a residual provision, which operates only where the intercourse does not amount to rape. Its invocation in the FIR, alongside Section 64 of the BNS, does not dilute the specific allegation of forcible intercourse.

46. Furthermore, even if the applicant's contention of a genuine and *bona fide* promise of marriage, and of the consensual nature of the relationship, were to be accepted, the fact remains that the complaint describes a relationship which (on the complainant's account) was induced by a promise of marriage, and within which forcible sexual intercourse was committed upon her.

47. The consensual nature of the relationship, even if accepted, does not by itself answer the specific allegation of force on the identified dates, made in the FIR and reiterated in the statement of the complainant under Section 183 BNSS. In this regard, it must be emphasised that consent to a relationship is not tantamount to consent to each act within it. A reference can be made to Explanation 2 to Section 63 of the BNS, which defines consent in the following terms:

> "*Consent means an* ***unequivocal voluntary agreement*** *when the woman by words, gestures or any form of verbal or non-verbal communication, communicates willingness to participate in the* ***specific sexual act****;*
> *Provided that a woman who does not physically resist to the act of penetration shall not by the reason only of that fact, be regarded as consenting to the sexual activity.*"
>
> (emphasis supplied)

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48. The offences principally alleged are of grave and serious nature. Offence under Section 64(1) BNS carries rigorous imprisonment for not less than 10 years, extending to imprisonment for life, and a fine. Section 64(2)(m), which punishes the commission of rape repeatedly on the same woman, carries the same minimum sentence, while the maximum extends to imprisonment for life.

49. It may also be noted that Section 120 of the Bharatiya Sakshya Adhiniyam, 2023 (corresponding to Section 114A of the Indian Evidence Act, 1872) raises a presumption as to absence of consent in a prosecution for rape under Section 64(2) BNS, where (i) sexual intercourse by the accused is proved, and (ii) the woman states in her evidence before the Court that she did not consent. This presumption underscores the seriousness with which the legislature views the offence now invoked under Section 64(2)(m) BNS.

***Prima Facie* Case**

50. The material/electronic evidence collected so far, *prima facie*, lends support to material portions of the complainant's account. The applicant's presence with the complainant on the material dates referred to in the FIR is, in fact, not disputed by him (though, as regards 08.03.2026, he disputes the alleged occurrence at the premises near Sunder Nursery and has not identified the premises to which the parties went after Sunder Nursery) and is *prima facie* corroborated by the CDR/location records and the hotel records. The applicant's own messages, *prima facie*, are consistent with the complainant's account, which have been referred to hereinabove.

51. In Crl. M.A. 30416/2026 filed by the State, it has been specifically stated as under:

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19. That, significantly, the version disclosed by the Applicant during investigation is stated to be inconsistent at material places with contemporaneous electronic communications and other material collected during investigation. The contradictions concern not merely peripheral matters but the meetings between the parties, physical relations, subsequent communications and the conduct of the Applicant.

20. That the communications collected during investigation also contain statements attributed to the Applicant which, prima facie, reflect expressions of remorse, admissions concerning his acts and omissions and corresponding responsibility, apart from repeated expressions concerning self-harm/suicide. The latter, prima facie, appear in the context of the allegations to have been employed as a means of exerting emotional pressure upon and dissuading the complainant from disclosing the incidents or approaching the authorities.

52. The circumstances relied upon by the applicant, namely, that the complainant booked the hotel rooms, travelled to Patna, and sent a message in April 2026 setting out "three options", may at best indicate that the parties were in a relationship, a fact which is not in dispute. They do not, however, answer the specific allegation that, on the identified occasions, sexual intercourse took place against her will. Consequently, the applicant's arguments do not, at this stage, convince this Court to take a view that no *prima facie* case has been made against the applicant. Accordingly, the applicant, in this regard, has failed to meet the test laid out in the *dicta* referred to hereinabove.

53. The contention that the FIR is a counter-blast to the criminal complaint instituted by the applicant at Patna does not, at this stage, detract from the *prima facie* case. The complainant's version is *prima facie* supported by her statement under Section 183 of the BNSS, the medical examination, the CDR/location and hotel records, and the applicant's own messages. Whether the proceedings at Patna were pre-emptive in nature, or

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the FIR was actuated by any motive, are matters for investigation and trial.

54. In this regard, the Supreme Court's decision in ***CBI v. Santosh Karnani***, 2023 SCC OnLine SC 427 can also be taken note of, wherein the Court observed as under:

> "*24. The time-tested principles are that no straitjacket formula can be applied for grant or refusal of anticipatory bail. The judicial discretion of the Court shall be guided by various relevant factors and largely it will depend upon the facts and circumstances of each case. The Court must draw a delicate balance between liberty of an individual as guaranteed under Article 21 of the Constitution and the need for a fair and free investigation, which must be taken to its logical conclusion. Arrest has devastating and irreversible social stigma, humiliation, insult, mental pain and other fearful consequences.* ***Regardless thereto, when the Court, on consideration of material information gathered by the Investigating Agency, is prima facie satisfied that there is something more than a mere needle of suspicion against the accused, it cannot jeopardise the investigation, more so when the allegations are grave in nature.***"
>
> (emphasis supplied)

55. Furthermore, the evidentiary value, as well as the complete context, of the chats and audio recordings relied upon by both sides is a matter for trial and cannot be adjudicated in the present proceedings. In this regard, a reference can be made to the decision, dated 24.02.2026, of this Court in ***Mo. Ammar v. The State (Govt. of NCT of Delhi)***, Bail Appln. 5066/2025, wherein the Court, in a similar context, made the following observations:

> "*12. Viewed from this perspective, I am of the view that this is* ***not a fit case for the grant of the extraordinary remedy*** *of anticipatory bail to the petitioner. The allegations against the petitioner are of rape, which is undoubtedly serious in nature, and is punishable by life imprisonment.* ***While the communications referred to by the petitioner, prima facie, show cordial communications even after the date of the first alleged incident, this is not the stage for conducting a mini trial.*** *Ms. Arya has pointed out that the chats placed on record are incomplete. The chats are also not in continuity, and some of them [eg. WhatsApp conversations dated 08.06.2025, 19.10.2025, 20.10.2025], do appear to contain deleted messages.*

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> *13.* ***The prosecutrix's statement under Section 183 BNSS has corroborated the initial allegations.*** *The investigation is still at a nascent stage.*"
>
> (emphasis supplied)

Destruction Of Evidence

56. Most significantly, crucial evidence on the applicant's side has become unavailable. It is noticed that in the anticipatory bail application (No. 2382/2026) filed on behalf of the applicant before the learned ASJ, South-East, Saket Courts, Delhi, it was specifically averred as under:

> *"43. ……Finally, the applicant, being exasperated by the continuous threats, intimidation, and coercion, categorically informed the complainant that he had also preserved in his mobile phone the entire electronic record of their relationship, including their conversations, messages, photographs, and other communications, and that in the event any false allegation was made against him, he would defend himself through lawful means before the competent authorities and Courts."*

57. The said application goes on to further aver as under:

> "*44. Shortly thereafter, while the applicant was returning to PMCH at approximately 11:00 PM on 04.06.2026, he was intercepted by certain unknown persons who abused him in filthy language, physically assaulted him, threatened him with a knife, and forcibly snatched away his mobile phone before fleeing from the spot. The applicant sustained injuries in the said assault and the applicant was examined vide MLC bearing ERS No. 5770. The close proximity between the repeated threats extended by the applicant and the aforesaid assault indicating the fact that the incident was not a mere coincidence but it was at the instance of the complainant or her family members as it now transpires. A copy of medical prescription indicating MLC bearing ERS No. 5770 is annexed herewith as ANNEXURE A11.*"

58. Notably, the applicant is a doctor pursuing his post-graduation at Patna Medical College Hospital, and no complaint to the police regarding the alleged snatching of his mobile phone at knife-point is on record. The

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only document on which he seeks to rely is the registration slip of his own hospital dated 05.06.2026 at 10:45 A.M, *.i.e.*, around eleven (11) hours after the alleged incident, which records an "alleged" case of "physical assault" at around 11:30 PM on 04.06.2026; the slip records the patient as "Referred by: Self". No step taken by the applicant to either report the loss of his phone or to trace it has been brought on record. Although it is asserted in the present application that a complaint was launched, no such complaint has been placed on record. The WhatsApp exchange of 06.06.2026 relied upon by the applicant, in which the complainant enquires whether he had got his phone, shows no more than that she had been told of its loss; it does not establish the circumstances in which the handset became unavailable. The entire version of the applicant regarding the loss of his handset does not inspire credibility, to say the least.

59. The result is that the device which, by the applicant's own averment, held the entire record of the relationship became unavailable within hours of him having so informed the complainant. Moreover, it is noticed that the applicant is stated to have deleted his Instagram communications with the complainant. The explanation that the said deletion took place prior to the registration of the FIR, and that the applicant has since furnished his credentials to the Investigating Officer, does not obviate the need to investigate the timing, extent and recoverability of the deleted data, which, as stated in paragraph 33 of the Status Report, requires forensic examination. It is noteworthy that, while in his reply to Crl.M.A. 30416/2026 the applicant complains that the prosecution has not stated when the deletion took place, in his reply to the Status Report he himself asserts that the Instagram conversations were deleted "much prior to the registration

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of the FIR", without disclosing when, from which device or account, or for what reason the deletion was effected.

60. The aforesaid aspect goes to the credibility of the version put forth by the applicant and the necessity to ensure that the relevant evidence is recovered. Suffice it to say, an applicant whose mobile device vanished on the very day on which he asserted that it held the whole record, and whose account of the relationship is contradicted by the facts and circumstances identified by the State, does not qualify as an 'exceptional case' in which the Court would protect an accused from arrest in advance.

61. It has been emphasised on behalf of the State that the investigation is at a stage where the applicant is required to be confronted with the circumstances surrounding the non-availability/deletion of evidence and the inconsistencies in his own account, and for tracing and securing the remaining digital record.

Conclusion

62. It can be observed that the offences are alleged to have been committed on specific identified occasions. The investigation is incomplete, and the investigating agency has shown a specific need for the applicant's custodial interrogation. In the opinion of this Court, the present case is not an 'exceptional case' warranting the extraordinary relief of anticipatory bail. The applicant's defence is one to be tested in trial, and it would not be apposite to grant any relief which would restrict/inhibit the investigation.

63. This Court takes note of the Crl.M.A. 30416/2026, filed on behalf of the State, wherein the exacerbating circumstances (referred to hereinabove) have been set out, which warrant that the interim protection be discontinued.

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64. It may be noted that the protection granted on 17.08.2026 was, in terms, an interim arrangement operative "till the next date of hearing", pending the comprehensive reply of the State, and was continued on 17.09.2026 in the same terms. It was not an order granting anticipatory bail upon adjudication of the application. The material which has since come on record, namely, the Status Report, the CDR/location and hotel records, the circumstances concerning the non-availability of the earlier handset and the deletion of the Instagram communications, and the inconsistencies in the applicant's own account, constitutes a material change in circumstances since 17.08.2026.

65. Consequently, the interim protection granted to the petitioner *vide* order dated 17.08.2026, passed in the present proceedings, stands vacated, and Crl.M.A. 30416/2026 is, accordingly, allowed.

66. It is noticed that the order dated 17.09.2026 was passed in the present application as also in W.P.(Crl) 2484/2026. However, the only interim order then in operation was the order dated 17.08.2026 passed in the present application. Accordingly, no interim order was passed in the said writ petition on 17.08.2026 or thereafter, and none subsists therein.

67. In W.P.(Crl) 2484/2026, which is listed on 17.11.2026, an application, being Crl.M.A. 25062/2026, has been filed seeking interim protection from coercive actions including arrest. The said writ petition as also Crl. M.A. 25062/2026 shall be considered independently and nothing in this judgment shall be construed as an expression of opinion of this Court on the merits thereof.

68. In view of the foregoing, the instant bail application, *i.e.*, Bail Appln. 3355/2026, stands dismissed.

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69. The date already fixed *i.e.*, 17.11.2026 stands cancelled.

70. It is made clear that the dismissal of the present bail application shall not preclude the applicant from surrendering before the competent Court and seeking regular bail, which shall be decided in accordance with law, uninfluenced by the observations made herein.

71. The identity of the complainant shall not be disclosed in any proceedings or report arising from this judgment.

72. Further, nothing stated hereinabove shall be construed as an expression of opinion on the merits of the case. The observations made hereinabove are only for the purpose of disposing of the present bail application.

73. Let a copy of this order be sent to the jurisdictional Magistrate and the concerned SHO, P.S. Hazarat Nizamuddin, for information and compliance.

SACHIN DATTA, J

OCTOBER 30, 2026/*at/ka/vk*

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