

GAHC010250652025



2026:GAU-AS:57

THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : AB/2678/2025

SHRI PARTHA PRATIM BARMAN
SON OF LATE PHATIK CHANDRA BARMAN
RESIDENT OF VILLAGE JAPARKUCHI, POST OFFICE AND POLICE
STATION-NALBARI, DISTRICT - NALBARI, ASSAM, PIN -781334.

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR. A CHAUDHURY, MR. B J TALUKDAR, MR. N
MAHAJAN, MR. P K DAS

Advocate for the Respondent : PP, ASSAM, MR. D K AGARWALA (INFORMANT)

BEFORE
HON'BLE MR. JUSTICE PRANJAL DAS
O R D E R

05.01.2026

Heard Mr. B.K. Mahajan, learned counsel for the petitioner and also heard
Mr. D. P. Goswami, learned Addl. P.P. for the State.

2. This application under Section 482 of BNSS, 2023, has been filed by the petitioner, namely, Partha Pratim Barman, in connection with Dhubri P.S. Case No.424/2025 registered under Sections 69/351(3)/3(5) of the BNS,2023.

3. The Informant, Jebin Sultana Ahmed, lodged an First Information Report (hereinafter referred to as FIR) inter alia alleging that from around 14th September 2024, Shri Partha Pratim Barman, the Accused/Petitioner, then serving as Circle Officer, Dhubri, deceitfully approached the informant and developed a close relationship by claiming that he was unhappy in his marital life with Smt. Debasena Barman, co-accused, and was in the process of obtaining a divorce, and on the basis of this false assurance and continuous persuasion he induced the Informant into physical relations promising to marry her once his divorce was finalized and later, the Informant discovered that all such assurances were fabricated and that the Accused/Petitioner never intended to divorce his wife, and by emotionally manipulating and exploiting her faith and vulnerability the accused/petitioner committed a serious act of sexual exploitation and betrayal of trust and that subsequently, around 21.08.2025, both accused persons Shri Partha Pratim Barman and his wife Smt. Debasena Barman allegedly began threatening, harassing and intimidating the Informant. They attempted to tarnish her reputation, destroy her dignity and cause her severe mental and emotional distress through continued pressure and humiliation, and as such a case being Dhubri Police Station Case No. 424/2025 under sections 69/351(3)/3(5) of Bharatiya Nyaya Sanhita, 2023.

4. The petitioner was granted interim bail on 13.11.2025 with conditions.

5. Mr. Mahajan, learned counsel for the petitioner has drawn attention of the Court to Section 69 of BNS and submitted that at that time when the petitioner

and the informant allegedly entered into an extramarital relationship, the petitioner was already married to his present wife and the same fact was known to the informant and therefore, there can be no question of a false promise to marry.

6. The learned counsel for the petitioner has placed before this Court a decision of the Hon'ble Supreme Court in the case of **Amol Bhagawan Nehul versus State of Maharashtra and Another 2025, SCC Online SC 1230** and drawn attention to para-8 and more specifically Para 8 clause (b). The learned counsel has also placed a decision of the Kerala High Court in **Sayooj S. Versus State of Kerala** reported in 2025, **SCC Online KER 4414** and drawn attention to Para-8 thereof.

7. Referring to these decisions, the learned counsel for the petitioner submits that the principle of law has been laid down by the Hon'ble Supreme Court in **Amol Bhagawan Nehul (Supra)** that, in a situation like the factual matrix of this case, there can be no offence of a false promise of marriage as such a promise would be illegal and unenforceable vis-à-vis the informant.

8. It is submitted that he has already cooperated in investigation and appeared before the I/O on 3(three) occasions and undertakes to continue the cooperation and further submits that no purpose would be served in detaining him at this stage.

9. The case diary has been received and learned Addl. P.P. Mr. R.J. Baruah, submits that the statement of the petitioner is available and the statement of the informant victim is also available, in which, she has implicated the petitioner.

10. There is some progress in the investigation as fairly submitted by the learned Addl. P.P.

11. Mr. D.K. Agarwal appears through online mode on behalf of the informant

and opposes the grant of bail and prays for vacating the interim bail. He submits that the petitioner has filed other cases pertaining to defamation against the informant at far away Nalbari to harass her. It is submitted that the petitioner is an influential person and he could misuse his liberty to the detriment of the informant.

12. It is submitted by the petitioner counsel Mr. Mahajan that the petitioner has filed a Title Suit against the respondent to prevent her from circulating materials which tarnish the reputation of the petition and which is registered as T.S. No.61/2025 before the learned Civil Judge, (Senior Division, Dhubri) and the learned Civil Judge, (Dhubri) vide order dated 06-11-2025 was also pleased to pass an order of temporary injunction.

13. It is submitted that on the very next day the present FIR came to be filed by the informant. To this point, the learned informant counsel submits that the informant came to know about the injunction order only on 10.11.2025.

14. I have considered the materials, the submissions and perused relevant portions of the case diary.

15. Before proceeding further Section 69 of BNS may be reproduced herein below:-

“Section 69:-Sexual intercourse by employing deceitful means, etc.-

Whoever, by deceitful means or making by promise to marry to 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.”

16. Further relevant paragraph of the aforesaid two judgments pointed out during the submission may be reproduced herein below:-

(i) Amol Bhagawan Nehul versus State of Maharashtra and Another 2025, SCC Online SC 1230.

“Para-8. Having heard both sides in this case and after carefully considering the material on record, the following attributes come to the fore:

(a) Even if the allegations in the FIR are taken as a true and correct depiction of circumstances, it does not appear from the record that the consent of the Complainant/Respondent no. 2 was obtained against her will and merely on an assurance to marry. The Appellant and the Complainant/Respondent no. 2 were acquainted since 08.06.2022, and she herself admits that they interacted frequently and fell in love. The Complainant/Respondent no. 2 engaged in a physical relationship alleging that the Appellant had done so without her consent, however she not only sustained her relationship for over 12 months, but continued to visit him in lodges on two separate occasions. The narrative of the Complainant/Respondent no. 2 does not corroborate with her conduct.

(b) The consent of the Complainant/Respondent no. 2 as defined under Section 90 IPC also cannot be said to have been obtained under a misconception of fact. There is no material to substantiate “inducement or misrepresentation” on the part of the Appellant to secure consent for sexual relations without having any intention of fulfilling said promise. Investigation has also revealed that the Khulanama, was executed on 29.12.2022 which the Complainant/Respondent no. 2 had obtained from her ex-husband. During this time, the parties were already in a relationship and the alleged incident had already taken place. It is inconceivable that the Complainant had engaged in a physical relationship with the Appellant, on the assurance of marriage, while she was already married to someone else. Even otherwise, such promise to begin with was illegal and unenforceable qua the Appellant.”

(ii) Sayooj S. Versus State of Kerala reported in 2025, SCC Online KER 4414,

“Para-8 In this context, it is observed that while considering the cases alleging rape on the basis of the promise of marriage, it is difficult for this Court at this juncture to enter into a conclusion regarding whether the relationship was consensual or not. The entire circumstances will have to be taken into consideration especially when a married lady enters into a physical relationship with another person. If both of the parties are aware about a subsistant marriage it cannot be alleged that the sexual intercourse between them was with a promise to marry.”

17. The case diary as called for, has been received along with a bail objection in which the I/O has contended that investigation is in progress and considering, the position of the petitioner granting of bail to him could be detrimental to the investigation and the interest of witnesses and that of the informant.

18. I have perused the relevant portions of the case diary including the statements of the informant/alleged victim recorded by police during investigation as well as before the learned Judicial Magistrate during investigation. From the materials, it appears that the informant entered into a relationship with the petitioner knowing that he was already married.

19. The story projected by the informant's side is that the accused petitioner told her that his marriage is in an unhappy stage and he would divorce his present wife and thereafter marry her. It is alleged by the informant's side, as also revealed by the materials collected during investigation that the informant, who is a civil servant assured to marry her after divorcing his present wife and thereafter, stabilize her life and with such assurances, he also entered into a relationship, including physical relationship with the informant.

20. Investigation has revealed that such physical relationship was done by the accused petitioner with the informant even in his official residence in the absence of his wife, who is also a civil servant. The investigation materials indicated about the informant facing pressure from the side of the informant.

21. Needless to say that the projected conduct of the accused petitioner from the investigation materials are unbecoming of a civil servant.

22. Nevertheless, with regard to the aspect of false promise of marriage, the informant was also aware about his marital step at the time she entered into relationship with him. However, Section 69 BNS also talks about having sexual intercourse with a woman using deceitful means. In this regard, the allegation

of the informant about the accused petitioner entering into physical relationship with her with the assurance of divorcing his present wife and thereafter, marrying her also finds support from the investigation materials, including the statement of the victim before police and Judicial Magistrate.

23. In the given facts and circumstances and keeping in mind that the investigation is still in progress and also the position of the petitioner vis-a-vis the victim, I come to the considered opinion that perhaps the petitioner would not be deserving of the privilege of anticipatory bail. Therefore, the interim bail granted by the order dated **13.11.2025** stands **vacated** and the present anticipatory bail petition stands **rejected** at this stage.

24. Return back the case diary.

JUDGE

Comparing Assistant