

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR

CRIMINAL APPELLATE JURISDICTION

CR. APPEAL NO. 168 OF 2026

Shri Shrishail Kallappa Teli
Age – 29 yrs., Occ. Presently Nil,
R/o. Teli Galli, Mahagaon,
Tal. Gadhinglaj, Dist. Kolhapur

... Appellant

Versus

1. The State of Maharashtra
2. Superintendent of Police, Kolhapur
3. The Victim in CR No. 277/2026
registered with Gadhinglaj Police Station,
Dist. Kolhapur.

... Respondent

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- *Mr. Anand S. Patil for the Appellant.*
 - *Mr. Shrikant H. Yadav, A.P.P. for the Respondent Nos.1 & 2-State.*
 - *Mr. Vishal V. Mane i/b. Ms. Sakshi M. Lokare, Ms. Asmita N. Chougale, Ms. Nikita J. Salunkhe & Ms. Snehal R. Kamble for the Respondent No.3.*
 - *Officer : PSI Mr. D.B. Kapse, Gadhinglaj Police Station, present.*
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Coram : ASHWIN D. BHOBE, J.

Date : 19th August 2026.

Oral Judgment :

1. Heard, Mr. Anand Patil, learned Advocate for the Appellant, Mr. Vishal Mane, learned Advocate for the Respondent No. 3-victim and Mr. S. H.

Yadav, learned A.P.P. for the Respondent Nos. 1 & 2-State.

2. By this Appeal under Section 14A of Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (“SCST Act”), the Appellant is seeking pre-arrest bail in connection with Crime No. 0277 of 2026, dated 05/06/2026, registered with Gadhinglaj Police Station, District Kolhapur, for the offences punishable under Sections 69, 78(2), 115(2), 351(2), 352, 3(5) of the Bharatiya Nyaya Sanhita, 2023 and Sections 3(1)(r), 3(1)(s), 3(2)(va) of the SCST Act.

3. Mr. Anand Patil, learned Advocate for the Appellant, states that there are four (4) accused in Crime No. 0277 of 2026. The Appellant is accused No. 1, while accused Nos. 2, 3 and 4 are the Appellant's family members.

4. The prosecution case is that the Respondent No.3-victim, belonging to the Scheduled Caste, developed a friendship with the Appellant in October 2025. The Respondent No.3 filed the F.I.R., contending that the Appellant had sexual intercourse with her on the pretext of marriage.

5. Mr Anand Patil, learned Advocate for the Appellant, submits that Respondent No. 3 is a 30-year-old married woman who became acquainted with the Appellant and developed a relationship with the Appellant. He submits that the Appellant and Respondent No. 3 visited various places and had consensual physical relations. He submits that the allegations made by

Respondent No. 3 against the Appellant in Crime No. 0277 of 2026 are false and mala fide.

6. Mr. Anand Patil, learned Advocate for the Appellant, further submits that the allegations that the Appellant made remarks about the caste of the Respondent No. 3 are false, vague and do not constitute any offence.

7. Mr. Yadav, learned A.P.P. for the Respondent Nos. 1 & 2, submits that the case of the prosecution is that the Appellant had sexual intercourse with the Respondent No.3, on the pretext of marriage and therefore the offence is made out. He submits that custodial interrogation of the Appellant is needed to subject the Appellant to medical examination.

8. Mr. Vishal Mane, learned Advocate for the Respondent No.3-victim, submits that the Appellant has made a caste-based remark against the Respondent No.3. He submits that the Appellant was fully aware that the Respondent No.3 was married at the time of establishing relationship with the Respondent No.3 . He submits that there was an understanding between the Respondent No.3 and the Appellant that the Respondent No.3 would first secure a divorce from her husband and thereafter marry the Appellant. He submits that the Respondent No.3 has sufficient material to show that the Appellant wanted to marry the Respondent No.3.

9. Perused the records.

10. The Respondent No. 3, a 30-year-old married woman (married on 28th February 2016) with a minor child from that marriage, is a fact not in dispute.

11. The Hon'ble Supreme Court in the case of ***Pramod Kumar Navratna v/s. State of Chhattisgarh and Others***¹, in paragraph Nos.19 and 20, has made the following observations :-

“19. Upon a careful consideration of the record in the present case, we are unable to discern any material that would warrant the invocation of Section 376(2)(n) of the IPC. The facts of the present case unmistakably indicate towards a classic case of a consensual relationship turning acrimonious. Upon perusal of the records of the case, it is evident that the complainant-respondent No. 3 is a married lady with a ten years old child. The said marriage was solemnized on 02.06.2011 and although divorce proceedings are currently pending adjudication between her and her husband, by no stretch of imagination can it be held that the complainant respondent No. 3 was eligible for being married with the accused/appellant on 18.09.2022, the date on which the first of the multiple instances of acts of rape on the false pretext of marriage has been committed by the accused-appellant are alleged. Therefore, even for the sake of argument, if the contention of the respondent No. 1-State and the complainant-respondent No. 3 is accepted that there indeed was a false promise of marriage based on which the accused-appellant indulged in sexual activities, such a promise would not be legally enforceable or even capable of being acted upon as the victim herself was not eligible for marriage, neither on the date of the first alleged act of offence i.e. 18.09.2022 nor on any subsequent dates wherein the parties indulged in the sexual activities, till the point of the date of registration of FIR i.e. 06.02.2025. The said embargo arises from sub-clause (i) of Section 5 of the Hindu Marriage Act, 1955 which categorically prohibits marriage between two individuals if either of them have a living spouse. The said position of law has been reiterated under sub clause (i) of Section 4 of the Special Marriage Act, 1954.

¹ Criminal Appeal ____ of 2026 (arising out of Special Leave Petition (Crl.) No. 4452 of 2025, dated 05/02/2026

20. In other words, the law prohibits bigamous unions and therefore disallows parties from entering into a second marriage during the subsistence of their first marriage. It is, therefore, difficult to accept the view that the complainant-respondent No. 3, who herself is an advocate, was oblivious to the said settled position of law and hence was duped and induced by the accused/appellant into having sexual relations with him on different occasions on the pretext of marriage especially when both the parties were cognizant of the marital status of the complainant/Respondent No. 3.”

12. Respondent No. 3, being married, was not eligible to marry the Appellant on the date of the alleged incident of rape, purportedly committed by the Appellant under the false pretext of marriage. The fact that Respondent No. 3 was well aware of her own impediment to marriage cannot be used to her advantage, namely, that the Appellant had promised her marriage and believing the same, she decided to maintain sexual relations with the Appellant. There is no material to suggest that the Appellant's intention was initially to deceive Respondent No.3 and to have a physical relationship.

13. The submissions of Mr. Vishal Mane, learned Advocate for the Respondent No. 3, as recorded in paragraph No. 9 hereinabove and the allegations in the F.I.R. *prima facie* indicate that a consensual relationship developed between the Appellant and the Respondent No. 3, later deteriorated. The ingredients of the offence thus charged against the Appellant are *prima facie* not made out.

14. The allegations against the Appellant for committing the offence under the SCST Act are that the Appellant addressed Respondent No.3 by her caste. *Prima facie*, there is no material on record to show that the Appellant referred to Respondent No.3's caste to humiliate her. Be that as it may, this is a matter for consideration at the stage of trial.

15. Considering the aforesaid circumstances, the custodial interrogation of the Appellant is not warranted. This is a fit case for granting pre-arrest bail to the Appellant on the following conditions:

- (a)** In the event of the arrest of the Appellant in the Crime No. 0277 of 2026, dated 05/06/2026, registered with Gadhinglaj Police Station, District Kolhapur, the Appellant shall be released on bail upon furnishing a PR bond of Rs. 50,000/- (Rupees Fifty Thousand only), with one or two local sureties in the like amount to the satisfaction of the Investigation Officer, Gadhinglaj Police Station, District Kolhapur.
- (b)** The Appellant shall report to the Investigating Officer at Gadhinglaj Police Station, District Kolhapur, on 21/08/2026 at 10.00 a.m. for his medical examination.
- (c)** The Appellant shall report to the Investigating Officer at Gadhinglaj Police Station, District Kolhapur as and when

required by the Investigating Officer.

- (d) The Appellant shall not directly or indirectly make any inducement, threat or promise to the Respondent No. 3-victim or to any person/s acquainted with the facts of the case to dissuade such person/s from disclosing the facts to the Court or any police officer.
- (e) The Appellant shall not tamper with evidence in any manner.
- (f) The Appellant shall provide the Investigation Officer with his residential address along with proof, his contact numbers and must inform the Investigating Officer of any changes to this information from time to time.
- (g) The Appellant shall cooperate with the Investigating Officer in the process of investigation in Crime No. 0277 of 2026.

16. The Criminal Appeal No. 168 of 2026 is disposed off.

[ASHWIN D. BHOBE, J.]

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