



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 272 OF 2025

Shaikh Shamshoddin s/o Shaikh Hameed,
Age : 30 years, Occupation Labour,
R/o: Gortha, Taluka Umri,
District Nanded.

... Applicant

Versus

The State of Maharashtra
Through Umri Police Station,
Taluka Umri, District Nanded.

... Respondent

**WITH
CRIMINAL APPLICATION NO. 568 OF 2025
IN
BAIL APPLICATION NO. 272 OF 2025**

X. Y. Z.

... Applicant

Versus

1. Shaikh Shamshoddin P. Shaikh Hameed Shaikh,
Age : 30 years, Occupation Labour,
R/o : Gortha, Taluka Umari,
District Nanded.

2. The State of Maharashtra
Through Umari Police Station,
Taluka Umari, District Nanded.

... Respondents

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Mr. Maniyar Irfan D., Advocate for the applicant in Bail Application No. 272 of 2025.

Ms. Sunita G. Sonawane, Advocate for the applicant in Criminal Application No. 568 of 2025.

Mr. S. B. Narwade, APP for Respondent-State in both applications.

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CORAM : ABHAY S. WAGHWASE, J.

Reserved on : 17.04.2025

Pronounced on : 21.04.2025

ORDER :

1. Criminal Application No. 568 of 2025 is at the instance of original informant, seeking permission to assist learned APP in prosecuting the present bail application. In view of the reasons mentioned in the application, the applicant/informant is allowed to assist APP. Criminal Application No. 568 of 2025 is accordingly disposed off.

2. Applicant in Bail Application No. 272 of 2025 seeks enlargement on regular bail on account of his arrest in crime no. 0366 of 2024 registered at Umri Police Station, District Nanded for offences punishable under Sections 64, 69, 89, 115(2), 352, 3(5) of the Bharatiya Nyaya Sanhita (BNS).

3. Learned counsel pointed out that applicant is arrested in above crime on 04.11.2024 and he is behind bars since then. It is further pointed out that informant herself is older than the applicant. That, there were love relations between them. Only because marriage did

not materialize, there is false implication. That, whatever episodes of sexual encounters took place were consensual, both being adults. Subsequently, because marriage did not materialize, allegations of forceful sexual encounters and forceful abortion are levelled. That, there was no reporting at any pointing of time prior to the FIR. Learned counsel pointed out that even father of victim is signatory and consenting party to the alleged medical termination of pregnancy. Therefore, allegation of forceful abortion to attract offence of Section 89 of BNS, has no force. That, whatever medical procedure took place, was by consent of victim as well as her father. Now investigation is over. Charge sheet is filed in January 2025 and in view of nature of allegations, when there is no further recovery or discovery to be made and when applicant is ready to abide all and any conditions imposed by this Court, learned counsel urges for grant of bail.

4. Learned APP opposed on the ground that there is sexual exploitation on promise of marriage. That apart, victim was forced to undergo abortion. That, there is medical evidence suggesting the same. That, serious offence is committed. Learned APP also expressed apprehension of misuse of liberty.

5. Learned counsel for informant victim also strongly opposed on the ground that there is forceful abortion. There is information to the medical authorities that, applicant posed informant to be his legally wedded wife and made her undergo medical termination of pregnancy. Even she opposes on the ground that offence is grave and there is every possibility of misuse of liberty.

6. Heard. Perused the papers. FIR dated 04.11.2024 is by the victim who claims that she is 32 years of age and she initially ran beauty parlour. She claims that seven years back, she came in contact with present applicant. According to her, since March 2022, he had sexual intercourse with her on promise of marriage and even impregnated her. However, finally on 09.10.2023 he performed marriage with a girl of his own religion. When she tried to intervene, she was allegedly beaten by family members of applicant and when she was about to lodge report, applicant approached her and again assured to perform marriage and further took her to hospital for termination of pregnancy and forcefully, against her wish, her pregnancy was terminated. On above report, crime has been registered.

7. As pointed out, applicant is shown to be 30 years of age. Whereas, informant has given her age as 32 years. Therefore, she is older than applicant. It emerges from the FIR itself that since seven years, they were both acquainted and allegations of promise of marriage are relevant since March 2022. She seems to have conceived due to physical relations and then she has reported about applicant performing marriage with a girl of his own religion on 09.10.2023. Therefore, at that point of time, she decided to lodge report, but again claims that on assurance to maintain her, she was desisted from lodging report and rather, claims to have been forcefully taken to hospital for undergoing termination of pregnancy. Statement of father of victim is also recorded. Statement made across the bar, that he is signatory to the consent papers of medical termination, is not refuted. Apparently both, applicant and informant, are adults and *prima facie* it appears that there is long standing acquaintance and relations. There was no reporting till advanced stage of pregnancy. Nothing is shown to be recovered at the instance of applicant. Charge sheet is filed in January 2025. There are no immediate prospects of matter going for trial. The apprehension of misuse of liberty can be taken care of by imposing stringent conditions. Hence, I proceed to pass the following order :

ORDER

- I. The application is allowed.
- II. Applicant be released on bail in connection with Crime No. 0366 of 2024 registered at Umri Police Station, District Nanded, on executing Personal Bond of Rs. 15,000/- with one surety in the like amount, on the following conditions:
 - [a] The applicant shall not tamper prosecution evidence.
 - [b] The applicant shall not enter the village where informant and her family resides, till conclusion of trial.
 - [c] The applicant shall not attempt to contact informant or her near and dear ones in any manner, directly or indirectly.
 - [d] The applicant shall not leave the area of jurisdiction of the concerned police station till conclusion of trial.
 - [e] The applicant shall regularly attend each and every effective date before the trial court.

[ABHAY S. WAGHWASE, J.]