



**IN THE JUDICATURE OF HIGH COURT AT BOMBAY  
BENCH AT AURANGABAD**

**CRIMINAL APPLICATION NO. 2569 OF 2025**

Mohammad Noor Latif Shaikh,  
Age : 41 Years, Occu. : Business,  
R/o. Khwaja Nagari, Pimprala,  
Hudco, Jalgaon, Dist. Jalgaon.

**.... Applicant**

**VERSUS**

1. The State of Maharashtra,  
Through its Ramanand Nagar  
Police Station, Jalgaon,  
Dist. Jalgaon.

2. XYZ

**.... Respondents**

....  
Advocate for Applicant : Mr. Vijay B. Patil  
APP for Respondent No.1-State : Mr. V.K. Kotecha  
....

**CORAM : SMT. VIBHA KANKANWADI &  
SANJAY A. DESHMUKH, JJ.**

**Dated : 21<sup>st</sup> July 2025**

**ORDER [PER SANJAY A. DESHMUKH, J.] :-**

1. Heard learned Advocate for the applicant as well as  
learned APP for the State.

2. This is an application for quashing the First Information  
Report (hereinafter referred to as “the F.I.R.”) and charge-sheet in

R.C.C. No.922 of 2024, under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter referred to as “the BNSS”), pending before the learned Judicial Magistrate First Class, Jalgaon, arising out of Crime bearing No.0270 of 2024, registered with Ramanand Nagar Police Station, Jalgaon, Dist. Jalgaon, dated 29.08.2024, for the offences punishable under Sections 64(1), 351(3) and 352 of the Bharatiya Nyaya Sanhita, 2023 (hereinafter referred to as “the BNS”).

3. Learned Advocate for the applicants pointed out the report dated 29.08.2024, in which respondent No.2/informant averred that she is residing with her husband and children. Her husband was working as a labourer. The applicant is a contractor. Her husband was serving with him as a mason. The applicant used to come intermittently to their house. Therefore, she and her husband got acquainted with him.

4. The informant further averred in her report that, on 15.11.2021, she had lodged the report against the applicant under Section 354-D of the I.P.C. Upon enraging on it, he and other persons committed mischief pertaining to her household articles by throwing them. Therefore, she had lodged the report on 16.07.2024 against them.

5. The informant further averred in her report that, on 20.07.2024, at about 11.45 p.m., when she was alone in her house, the applicant came there. He abused her. He pulled her, untied the string of her salwar and committed forcible rape on her. She did not lodge the report as the applicant threatened to kill her husband and children. She informed about the incident to her husband and thereafter, lodged the report.

6. Learned Advocate for the applicant submitted that the applicant is falsely implicated in the present crime. He is innocent having no concern with the present crime. Husband of the informant was having a friendly relationship with the applicant. The informant was in need of money to purchase a house, therefore, the applicant had given a handloan of Rs.1,40,000/-. To avoid the liability, the informant created a concocted story and lodged false F.I.Rs. against the applicant. There is nothing in the charge-sheet for warranting the applicant for trial. There is delay in lodging the F.I.R. and the explanation for delay has not been given by the informant. The essential ingredients of offences under Sections 64(1), 351(3) and 352 of the BNS are not established against the applicant. If he is compelled to face the trial, it would certainly be an abuse of the process of the Court. It is lastly prayed to allow the application.

7. Learned APP for the State strongly opposed the application and submitted that the applicant has committed heinous crime. He has committed rape on the informant and threatened her and her family members. The incident is specifically narrated by the informant as to when the applicant came to her house and committed crime against her. The delay in lodging F.I.R. has been properly explained by the informant that the applicant threatened to kill her husband and children, therefore, she did not lodge the report immediately. Thus, no case is made out to exercise the powers under Section 528 of the BNSS, as the investigation is over, charge-sheet is filed and let the trial be completed. It is lastly prayed to reject the application.

8. In the context of this case, it would be relevant to refer the following authorities :

i) ***Mohammad Wajid and Another Vs. State of U.P. and Another, reported in 2023 SCC Online SC 951; 2023 INSC 683,*** wherein the Hon'ble Supreme Court has laid down the law as follows :-

*“34 ..... it will not be just enough for the Court to look into the averments made in the FIR/complaint alone for the purpose of ascertaining whether the necessary*

*ingredients to constitute the alleged offence are disclosed or not. In frivolous or vexatious proceedings, the Court owes a duty to look into many other attending circumstances emerging from the record of the case over and above the averments and, if need be, with due care and circumspection try to read in between the lines. The Court while exercising its jurisdiction under Section 482 of the CrPC or Article 226 of the Constitution need not restrict itself only to the stage of a case but is empowered to take into account the overall circumstances leading to the initiation/registration of the case as well as the materials collected in the course of investigation....”*

ii) ***CBI Vs. Aryan Singh, reported in 2023 SCC Online SC***

**379**, in which the Hon’ble Supreme Court has held as follows :-

*“10. As per the cardinal principle of law, at the stage of discharge and/or quashing of the criminal proceedings, while exercising the powers under Section 482 of Cr.P.C., the Court is not required to conduct the mini trial.”*

iii) ***Kim Wansoo Vs. State of Uttar Pradesh & Ors., reported***

***in 2025 SCC Online SC 17***, wherein the Hon’ble Supreme Court, in para.9 of the judgment, has held as under :

*“9. In **State of A.P. v. Golconda Linga Swamy**, this Court again held that where an FIR did not disclose the commission of an offence without anything being added or subtracted from the recitals thereof, the said FIR could be quashed.*

9. We have perused the charge-sheet, particularly the report and statements of witnesses. The informant has clearly stated that the incident took place on 20.07.2024 at about 11.45 p.m. Further, her history was also noted by the Doctor, in which she made the allegation of alleged incident of sexual assault on her. It is alleged that, prior to the incident, the applicant committed various crimes against the informant including outraging of her modesty. Therefore, she lodged the reports dated 15.11.2021, 19.07.2024 and 02.12.2024, against the present applicant. The delay in lodging the report has been tried to be explained by the informant that the applicant threatened her if she disclosed that incident to anybody.

10. Considering the serious allegations and the history stated by her as well as opinion of the Doctor that the possibility of sexual violence cannot be ruled out, there are materials against the applicant to proceed with the trial. Under such circumstances, no case is made out against the applicant for exercising the powers under Section 528 of the BNSS. Therefore, the application deserves to be rejected. Hence, the application stands rejected.

**[ SANJAY A. DESHMUKH ]**  
**JUDGE**

**[ SMT. VIBHA KANKANWADI ]**  
**JUDGE**