



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO. 623 OF 2025

NITIN SHIVAJI AADE
SATISH SHIVAJI AADE
ARUN SHIVAJI AADE

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

...
Shri Sachin Subhash Panale, Advocate for the Appellants.
Shri D.B. Bhange, APP for Respondent No.1/ State.
Ms. Roshani A. Gajbhuje, Advocate for Respondent No.2.
...

CORAM : SUSHIL M. GHODESWAR, J.

DATE : 10 September, 2025

P. C. :-

1. By this appeal, the appellants are challenging the order dated 31.07.2025 passed by the learned Additional Sessions Judge, Udgir, District Latur, in Criminal Bail Application No.148/2025 whereby, the said application preferred by the appellants for grant of anticipatory bail was rejected. The aforesaid anticipatory bail application was preferred in Crime bearing FIR No. 94/2025 registered with Jalkot Police Station, District Latur for the offences punishable under Sections 352,

64(2)(m) and 69 of the Bharatiya Nyaya Sanhita, 2023 and Sections 3(1)(r)(s), 3(1)(w)(i) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short, 'the Atrocities Act'). The FIR came to be lodged on 16.05.2025 at the behest of respondent No.2/ informant.

2. It is stated in the FIR that in the month of September, 2024, the informant received a message on her mobile through Whatsapp from unknown number and upon enquiry, he disclosed his name as Nitin Aade (appellant No.1 herein) and since then they started talking with each other and became friends. They used to talk on phone frequently and in one such conversation in October, 2024, Nitin informed her that he is employed in Army and posted in Himachal Pradesh. On 01.11.2024, Nitin told her on phone that he has been transferred to Shrinagar from Himachal Pradesh. Thereafter, on 12.01.2025, Nitin called her and expressed his desire to marry her. In the month of February, 2025, Nitin told her that in March, 2025 he is coming to his native village for attending marriage of his elder brother Arun on 28.04.2025 and accordingly, he asked her to come to meet him so that the talks of their marriage can be gone

into. It is the contention of the informant that Nitin used to force her to meet him and accordingly, on 07.04.2025 she went to meet him at Delhi from Nagpur and reached at the Nizamuddin Railway Station. They stayed at Delhi in one hotel for about three days and during their stay, they alleged to have entered into physical relations on many occasions as Nitin alleged to have promised her to marry. On 09.04.2025, they left Delhi and reached Ujjain in Madhya Pradesh on 10.04.2025 and they stayed there upto 11.04.2025. Thereafter, they visited several places and stayed there as like husband and wife. It is stated that she reached Nagpur on 16.04.2025 and thereafter, used to establish contact with him, however, he started avoiding her. He was not picking up her calls, therefore, doubts were created in her mind. It is stated that on 25.04.2025, she visited the lodge at Aurangabad where they stayed during their last visit and from that lodge, she got the address of Nitin. At that time, she learnt that Nitin is resident of Shivajinagar Tanda, Post Mala Hipparga, Taluka Jalkot, District Latur. Thereafter, she reached to Shivajinagar Tanda and called Nitin, however, Nitin did not come to meet her. When she was waiting at Shivajinagar Tanda Bus Stop, elder brothers of Nitin, namely, Satish and Arun along with certain

villagers came there. Elder brothers of Nitin asked her about her caste and when she disclosed her caste, they humiliated her. They told her that they would not allow their brother to marry her. Thereafter, Nitin also alleged to have reached there and he refused to marry her. On the basis of the aforesaid allegations, respondent No.2/ informant stated that appellant No.1 Nitin on the pretext of performing marriage with her, committed sexual intercourse with her on many occasions and, therefore, lodged the report with the Police Station.

3. Heard the learned advocate for the parties.

4. The learned advocate for the appellants submits that there is huge delay of 19 days in lodging the FIR. The relations between appellant No.1 and respondent No.2 are consensual in nature. They were in physical relationship from 06.04.2025 to 14.04.2025. Respondent No.3 travelled all the way from Nagpur to Delhi and resided with him for three days and thereafter, they went to Ujjain and resided there for two days and thereafter, they went to Pune and Jejuri and ultimately separated their ways on 15.04.2025. The learned advocate further stated that mere reference to caste of respondent No.2 does not amount to

humiliation on account of her caste. Therefore, *prima facie* no offence under the provisions of the Atrocities Act is made out against the appellants. He would also submit that there being no *prima facie* case against the appellants, the bar for grant of anticipatory bail under Sections 18 and 18-A of the Atrocities Act would not come into play. He lastly urged that the appellants are falsely implicated. Investigation is over and the charge-sheet is ready to be filed in the Court, therefore, no custody is required. He, therefore, prayed for grant of anticipatory bail.

5. *Per contra*, the learned APP along with the learned advocate for respondent No.2/ informant have vehemently opposed the appeal stating that the appellants are involved in serious offence. On the pretext of false promise of marriage, appellant No.1 committed sexual intercourse with the informant. The investigation pertaining to medical examination of appellant No.1 and seizing his clothes is yet to be done. The appellants may tamper with prosecution witnesses and, therefore, they are not entitled for grant of anticipatory bail.

6. Perused the investigation papers, which disclose that

after registering the offence, the informant was referred to medico-legal examination and it discloses no injuries. The informant seems to have given supplementary statement on 26.05.2025 wherein, she has disclosed that the place where she was abused by referring to her caste, was not Shivajinagar Tanda Bus Stop, but it was Jalkot in front of the Police Station. The investigation of the crime is completed and the charge-sheet is ready for further process. Except the statement of the informant, there is no other incriminating material available in the charge-sheet. During the course of hearing, the learned advocate for respondent No.2, on instructions, made the statement that the parties are going to settle the dispute amicably. After going through the record, it appears that there is no prima facie case against the appellants and, as such, the bar under Section 18 or Section 18-A of the Atrocities Act will not be applicable. So also, investigation is complete and the charge-sheet is ready to be filed in the Court, therefore, there is no need of custodial interrogation of the appellants.

7. In *Dhruvaram Murlidhar Sonar vs The State Of Maharashtra*, AIR 2019 SC 327, the Hon'ble Supreme Court has

observed in paragraph 20 as under:-

“20. Thus, there is a clear distinction between rape and consensual sex. The court, in such cases, must very carefully examine whether the complainant had actually wanted to marry the victim or had mala fide motives and had made a false promise to this effect only to satisfy his lust, as the later falls within the ambit of cheating or deception. There is also a distinction between mere breach of a promise and not fulfilling a false promise. If the accused has not made the promise with the sole intention to seduce the prosecutrix to indulge in sexual acts, such an act would not amount to rape. There may be a case where the prosecutrix agrees to have sexual intercourse on account of her love and passion for the accused and not solely on account of the misconception created by accused, or where an accused, on account of circumstances which he could not have foreseen or which were beyond his control, was unable to marry her despite having every intention to do. Such cases must be treated differently. If the complainant had any mala fide intention and if he had clandestine motives, it is a clear case of rape. The acknowledged consensual physical relationship between the parties would not constitute an offence under Section 376 of the IPC.”

8. In view of the above and in the light of the judgments delivered by the Hon’ble Supreme Court in **Prathvi Raj Chauhan vs Union Of India, AIR 2020 SC 1036** and **Shajan Skaria vs. State of Kerala, 2024 SCC Online SC 2249 : 2024 INSC 625**, observing that there is no absolute bar on granting anticipatory bail and in cases where no *prima facie*

materials exist in the offences under the Atrocities Act, the Court has the inherent power to direct a pre-arrest bail, the instant appeal deserves to be allowed by granting anticipatory bail to the appellants on certain conditions. Hence, the following order:

ORDER

- a) The Criminal Appeal stands allowed.
- b) The impugned order dated 31.07.2025 passed by the learned Additional Sessions Judge, Udgir, District Latur, in Criminal Bail Application No.148/2025, is quashed and set aside.
- c) The appellants shall be released in the event of their arrest in connection with Crime bearing FIR No. 94/2025 dated 16.05.2025 registered with Jalkot Police Station, District Latur for the offences punishable under Sections 352, 64(2)(m) and 69 of the Bharatiya Nyaya Sanhita, 2023 and Sections 3(1)(r)(s), 3(1)(w)(i) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, on furnishing PR bond of Rs.25,000/- [Rupees Twenty Five Thousand Only] each with one solvent surety/ security in the like amount.
- d) The appellants shall attend the concerned police

station as and when called by the Investigating Officer.

e) The appellants shall not try to contact or pressurize the witnesses or the informant, in any manner whatsoever.

9. However, it is made clear that the observations made in this order are *prima facie* in nature for the purpose of adjudication of this appeal.

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(SUSHIL M. GHODESWAR, J.)