

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPEAL NO.873 OF 2025

**SATISH
RAMCHANDRA
SANGAR**

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Date: 2025.09.26
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Saurabh Bapu Khomane

Age : 25 Years, Occupation : Student,

Residing at : Morgaon Road, Jejuri,

Taluka : Purandar, District : Pune.

...Appellant

Versus

1. **The State of Maharashtra**
(Through Jejuri Police Station
vide C.R. No.234 of 2025).

2. **XYZ**
(Through Jejuri Police Station).

...Respondents

Mr.Pawan Mali a/w Mr.Rupesh Zade:-	Advocate for Appellant.
Mr.Ashok S. Gawai:-	APP for Respondent No.1 -State.
Ms.Vilasini Balsubramanian:-	Appointed Advocate for Respondent No.2/Complainant.

CORAM : S. M. MODAK, J.

DATE : 17th SEPTEMBER 2025

ORAL ORDER :-

1. I have heard learned Advocate Shri.Mali for the Appellant at great length. Also heard learned APP and learned Advocate for the First-Informant / Respondent No.2 at great length.

2. Today learned APP submitted that charge-sheet is filed before the concerned Special Court. He has brought copy of the charge-sheet.

It was filed for the offences under Sections 64(1)(2)(m), 69, 352, 351(2), 351(3) of Bharatiya Nyaya Sanhita, 2023 (“**BNS**”) and under Sections 3(1)(r)(s), 3(1)(w)(i)(ii), 3(2)(va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (“**SC & ST Act**”). Learned APP is kind enough to allow the learned Advocate for the First-Informant and Mr.Mali to go through the charge-sheet. After reading the same, both have made additional submissions.

3. **Learned Advocate for the victim** invited my attention that the present Appellant was in jail involving the similar incident. **Whereas Mr.Mali** on the basis of contents of statement recorded under Section 183 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (“**BNSS**”), submitted that the allegation in the FIR about having intercourse by giving false promise to marry does not withstand. It is also true when learned Special Judge has rejected the Application of this Appellant on 29th July 2025, charge-sheet was not filed. On this background, I have gone through the facts stated by the victim in the FIR and in the statement under Section 183 of BNSS.

4. It is true there are allegations against the Appellant which violate the provisions of BNS as well as SC & ST Act. Even though the provisions of Section 3(1)(s) are invoked, admittedly it is not the case

of the prosecution that the Appellant abused the First-Informant on account of her caste. In the FIR, there is a reference that the First-Informant always used to tell the Appellant about her caste and they cannot perform the marriage. However certainly caste abuses are not there.

5. After reading the papers, the allegation is the victim and the Appellant introduced themselves through Instagram. It was in the year 2021. Their friendship has converted into love relationship. They were in relations till 8th January 2025 whereas the FIR is lodged on 29th June 2025. After reading the statement, what the victim has stated is she sincerely desires to marry with the Appellant, however, it seems that as the Appellant has not married with her, she has lodged the Police complaint.

6. Mr.Mali tried to point out the inconsistency in between the averments in the FIR and in the statement. From FIR, it seems that there was intercourse on three occasions:-

- (a) On 9th September 2023, at Sawai Lodge.
- (b) Lodge at Baramati and
- (c) On 8th January 2025 at Purandar Lodge.

It is true the Police have recorded the statements of certain persons from the lodge to show both of them visited the lodge.

7. **Learned APP emphasized** on the threat given by the Appellant to publish her photos if the victim will not come and meet the Appellant. **According to Mr.Mali**, there is no reference that the photos are objectionable. It is true the Police did not get an opportunity to have a custodial interrogation of the Appellant. As the offence is under the provisions of SC & ST Act, this Court is required to ascertain whether the bar under Section 18A(2) of the SC & ST Act can be lifted.

8. **According to learned Advocate for the victim**, consent for the intercourse was only on the basis of promise to marry. This is not a mere promise but it was a false promise. In given set of facts, how such a promise is to be considered. That is to say false promise or breach of promise.

9. She relied upon the observations in case of *Pramod Suryabhan Pawar V/s. State of Maharashtra and Another*¹. She read the relevant observations. It is true merely because a promisor fails to fulfill the promise, it does not become a false promise. A breach of promise can become a false promise when since beginning, there is no intention to fulfill that promise. On this background, the materials and the allegations need to be tested. This exercise is to be done only for the purpose of deciding the bail prayer and whether the bar can be lifted.

1 (2019) 9 Supreme Court Cases 608

Though Mr.Mali relied upon certain Whats-app messages yesterday, today he has not produced them. He restricted his arguments on the basis of the papers submitted along with the charge-sheet.

10. As per the provisions of **Section 63** read with **Section 64** of the BNS, “*an act can be treated as a rape, if it is without her consent.*” In this case, the Police have invoked the provisions of Section 64(2)(m) of BNS. It talks about ‘committing a rape repeatedly’. Though not in the FIR but in the charge-sheet they have added **Section 69** of BNS Act. If we read the provisions of that Section, ‘*sexual intercourse by employing deceitful means*’ is a punishable offence ‘provided it does not amount to offence of rape’. It is true ultimately whether the offence will fall under Section 64(2)(m) or under Section 69 will be decided when the trial will be conducted.

11. In order to have *prima facie* findings whether there was a breach of promise or false promise, I have gone through the averments in the FIR and in the statement. It may also happen that apart from the willingness of the male person, there may be also other factors which are relevant for deciding the promise as breach of promise or false promise. It is true in the FIR, the First-Informant used to tell the Appellant about difference in their castes and difficulty in performing

the marriage but still the Appellant used to tell her about performing the marriage. Whereas in the statement under Section 183 of BNSS, there are two circumstances which are pointed out by Mr.Mali. They are as follows:-

- (a) The Appellant has stopped interacting with the victim and at that time, he informed the victim that it is causing annoyance to his mother.
- (b) Second reference is about the mother of the victim. The victim informed to the Appellant about ill-health of her father and on that, the Appellant tried to convince the victim that he will talk to her mother when she is alone.

12. No doubt it is true in the statement under Section 183, the victim has referred about the relationship of the Appellant with another girl and the Appellant was also behind bar. But at the same time, it is true the Appeal has to be decided on the basis of its own merits. This antecedent can be relied upon as a supportive material. When I have done the scrutiny of all these materials, what I *prima facie* finds that both of them have interacted with each other about the proposed marriage. It also reveals that sometime, it was dislike by the mother of the Appellant and on another occasion, the mother of the victim is required to be convinced. If these are the circumstances, it is difficult to believe at this stage that there was a false promise given by

the Appellant to marry the victim. No doubt, the investigation is complete and the Court is having all the materials collected during the investigation. But apart from completion of the investigation, certain facts can be explained when the evidence will be adduced. But till that time, the Court cannot postpone giving of certain *prima facie* findings. **I am inclined to agree with the case put up on behalf of the Appellant. For these reasons, there is reason to believe that the relationship was consensual.**

13. The effect of this finding on the invocation of SC & ST Act also needs to be considered. **As per Section 3(1)(r),** “*there has to be an intentional insult or intimidate a member of the reserved category within public view.*” No doubt, there is averment of publishing the photos if the victim will refuse to meet the Appellant but I do not find that these threatening was given just because the victim is a member of reserved category. Except these averments, no other material from the charge-sheet is pointed out to me. **As per clause 3(1)(w)(i),** if a member of non-reserved category intentionally touches a woman belonging to a reserved category and this fact of touching is of sexual nature and without consent, that is punishable offence. Even if there is a gesture of a sexual nature which is punishable. As said above, on the basis of

materials, it cannot be said that the Appellant has touched the victim just because she is a member of reserved category.

14. **As per Section 3(2)(v)**, if the offence under IPC, the punishment is 10 years or more if committed knowing that the victim is a member of reserved category, it would be an additional offence. As said above, the materials are falling short to believe that the Appellant is having sexual intercourse just because she is a member of reserved category.

15. For the above discussion, I do not think that the bar as laid down under Section 18A(2) will be applicable. Already the investigation is over and the charge-sheet is filed.

16. Learned Judge while rejecting the Application was not fully equipped with all the investigation materials which is part of the charge-sheet. In view of that, the conclusion drawn by him is on the basis of incomplete materials. **I am inclined to set aside the order.** Hence the following order:-

ORDER

- (i) **The Appeal is allowed.**
- (ii) The order dated 29th July 2025 passed by the Court of Special Judge, under the SC & ST (POA) Act, Pune in Criminal Bail Application No.4739 of 2025 is set aside.
- (iii) In case of arrest in connection with C.R. No.234 of 2025 registered with Jejuri Police Station – Pune Rural for the

offences under Sections 64(1), 64(2)(m), 351(2), 351(3) of BNS and under Sections 3(1)(r), 3(1)(s), 3(1)(w)(i), 3(1)(w)(ii), 3(2), 3(V) and 3(1)(w) of SC & ST Act, **the Appellant – Saurabh Bapu Khomane** be released on bail **on furnishing personal bond and surety bond of Rs.25,000/- (Rupees Twenty Five Thousand).**

- (iv) The Appellant is directed not to threaten the prosecution witnesses or to allure them in any manner.
- (v) The Appellant is directed not to enter the Purandar Taluka of Pune District for a period of two (2) years. He is permitted to enter the Taluka only for the purpose of attending the Court proceedings.
- (vi) The Appellant is directed to give attendance to the Office of Sub-Divisional Police Officer – Pune Gramin for first Monday of the month of October – 2025, January – 2026 and July – 2026 from 10.00 a.m. to 11.00 a.m. for a period of two (2) years.
- (vii) For giving attendance, if the Appellant is required to travel through Purandar Taluka, he is at liberty.
- (viii) The Appellant is further directed to give his alternate place of residence to the Investigating Officer and to the concerned Court.

17. I appreciate the assistance given by Ms.Vilasini Balsubramanian, learned Appointed Advocate through the Legal Aid. She be paid with the fees.

18. With these observations, the Appeal is disposed of.

[S. M. MODAK, J.]