

AGK

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

BAIL APPLICATION NO.482 OF 2025

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Sagar Vijaykumar Mishra

... Applicant

V/s.

The State of Maharashtra & Anr.

... Respondents

Mr. Raviraj R. Paramane with Mr. Deva L. Shinde for the applicant.

Mrs. Mahalaxmi Ganapathy, APP for respondent No.1-State.

Ms. Priyanka H. Chavan, for respondent No.2 (appointed as Legal Aid Counsel).

Mr. Sunil Holar, PSI, Kalamboli Police Station, is present.

CORAM : AMIT BORKAR, J.

DATED : JUNE 23, 2025

P.C.:

1. It is clarified that this Court by order dated 28 April 2025 appointed Priyanka H. Chavan, and accordingly she has appeared in the matter.

2. By this application filed under Section 483 of the *Bhartiya Nagarik Suraksha Sanhita, 2023* (hereinafter referred to as “BNSS”), the applicant seeks regular bail in connection with Crime Register No. 353 of 2024 registered at Kalamboli Police Station, Panvel, for offences punishable under Sections 69 and 351(2) of the *Bhartiya Nyaya Sanhita, 2023* (“BNS” for short).

3. As per the prosecution case, the applicant and the victim became acquainted sometime in the year 2023. It is alleged that on 5th September 2023, the applicant called the victim to his sister's house and committed forcible sexual intercourse with her under the pretext of marriage. Again, on 27th September 2024, a similar incident is said to have occurred at the same place. According to the complaint, there were multiple such incidents between 5th September 2023 and 27th September 2024. The First Information Report was lodged by the victim on 2nd October 2024. The victim has explained the delay in lodging the FIR on the ground that the applicant had threatened her that he would make objectionable videos viral if she reported the matter.

4. The applicant came to be arrested on 2nd October 2024 and is presently in judicial custody.

5. Learned Advocate appearing for the applicant submitted that at the relevant time, the victim was 24 years old and the applicant is 25 years old. He submitted that the FIR is a result of a consensual relationship turning bitter due to personal differences. It is argued that whether there was a false promise of marriage from the inception is a matter which can only be determined at the time of trial. He further submitted that the narration of events by the victim does not indicate that there was use of physical force by the applicant or that the victim made any resistance at the time of the alleged acts. He, therefore, prayed that the applicant be released on bail by imposing suitable conditions.

6. On the other hand, the learned Additional Public Prosecutor,

along with the learned Advocate appointed to assist the victim, opposed the bail application. It is contended that the promise of marriage made by the applicant was false and dishonest from the beginning, and based on such deceit, the victim consented to physical relations. It is therefore submitted that the so-called consent obtained under false promise cannot be treated as free and voluntary consent. They further apprehended that in the event of release, the applicant may tamper with the prosecution witnesses or influence the victim. It is thus prayed that the bail application be rejected at this stage.

7. I have carefully considered the submissions of the learned Advocate for the applicant, the learned APP, and the learned counsel appearing for the victim. I have also perused the FIR, statement of the victim, and the material available on record.

8. From the FIR and accompanying material, it is seen that the age of the victim on the date of the first incident was 24 years, and that of the applicant is 25 years. Both are adults. The FIR itself states that the applicant and the victim were in a relationship since September 2023 and the incidents are alleged to have occurred over a period of more than one year. It is also not in dispute that the victim filed the FIR after more than a year from the first incident, i.e., on 2nd October 2024. The reason for delay is stated to be threats of making videos viral. However, there is no recovery of any such video till date, nor is there any specific allegation of the applicant actually circulating such video.

9. The nature of allegations and the fact that the parties were

in a relationship and the sexual acts occurred repeatedly over time raises a question as to whether the consent was obtained under a false promise of marriage or whether the relationship turned sour due to personal issues. Such aspects require deeper examination and can only be tested at the time of trial. At this stage, the version of the prosecution, even if accepted on face value, does not prima facie indicate the use of force or immediate compulsion. There is also no material to suggest that the applicant has criminal antecedents or has attempted to tamper with evidence after his arrest.

10. The applicant is in custody since 2nd October 2024. The charge-sheet is not yet filed. The possibility of early conclusion of trial is remote. Therefore, further pre-trial incarceration of the applicant would not serve any useful purpose. The apprehension of the prosecution that the applicant may tamper with evidence can be addressed by imposing suitable conditions.

11. Hence, following order:

(i) The bail application is allowed:

(ii) The applicant is directed to be released on regular bail in connection with C.R. No.353 of 2024 registered with Kalamboli Police Station, Panvel for offences punishable under Sections 69 and 351(2) of the BNS Act, on his executing a personal bond in the sum of ₹25,000/- (Rupees Twenty-Five Thousand only) with one or more solvent sureties in the like amount, to the satisfaction of the Trial Court, subject to the following conditions:

- a) The applicant shall report to Kalamboli Police Station, Panvel on the first Monday of every month between 10:00 a.m. and 12:00 noon, until further orders.
- b) The applicant shall not contact either the victim or any of her family members;
- c) The applicant shall not tamper with the evidence or attempt to contact or influence any witness, directly or indirectly.
- d) The applicant shall appear before the Trial Court on every date of hearing, unless prevented by a sufficient and valid cause.
- e) The applicant shall not leave the territorial jurisdiction of the Trial Court without prior permission.
- f) The applicant shall not indulge in any criminal activity during the pendency of the trial.
- g) Any breach of these conditions shall result in the prosecution moving for cancellation of bail before the Trial Court.

12. The bail application accordingly disposed of in the above terms. No costs.

(AMIT BORKAR, J.)