

Shabnoor

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

BAIL APPLICATION NO. 1073 OF 2025

Sudarshan Baburao Kalave	... Applicant
V/s.	
State of Maharashtra & Anr.	... Respondents

Mr. Niranjan Bhavake a/w Mr. Sushant Tayade a/w
Drishti Madhani a/w Anurag Ramekar a/w Swamini
Thakur i/b Bhavake & Associate for the Applicant.

Ms. Megha S. Bajoria, APP for State – respondent No.1.

Ms. Saxena for respondent No.2 (appointed as Legal
Aid Counsel)

Mr. Arun J. Dubale, PSI, Vitthalwadi Police Station,
Thane.

CORAM : AMIT BORKAR, J.

DATED : JUNE 26, 2025

P.C.:

1. This is a bail application filed under Section 483 of the *Bharatiya Nagarik Suraksha Sanhita, 2023* (BNSS). The applicant is seeking his release on regular bail in connection with Crime Register No. 602 of 2024, registered with Vitthalwadi Police Station, District Thane, for the offences punishable under Sections 376 and 376(2)(n) of the *Indian Penal Code, 1860*.

2. As per the case of the prosecution, the victim was working in the loan department of a financial agency, and during the course of her work, she got introduced to the applicant who had approached

for a loan. Thereafter, they started meeting each other and developed a relationship. It is the allegation of the victim that on 4th October 2022, they attended a birthday celebration, and during the course of their growing friendship, the applicant promised to marry her in May 2023. Relying upon this promise, the victim states that she had sexual intercourse with the applicant.

3. Further, in March 2023, the applicant is alleged to have visited the house of the victim, and after having lunch, they again had sexual relations, which according to the victim, was also based on the continued promise of marriage. However, subsequently, on 10th November 2024, the victim came to know that the applicant was already married. Feeling cheated and aggrieved, she filed a report with the police on 14th November 2024. The applicant was arrested later on 12th January 2025. His application for bail made before the learned Sessions Court came to be rejected. Hence, the present application is filed.

4. The learned Advocate appearing for the applicant has submitted that even according to the allegations made in the complaint and statement of the victim, the relationship between the parties lasted from February 2023 to November 2024. He pointed out that the complaint has been filed only after an altercation occurred between the applicant and the fiancé of the victim, which allegedly triggered the registration of the present crime. It is submitted that the relationship between the parties was consensual, and that the victim was a major (around 28 years of age) at the time of the alleged first incident.

5. The learned advocate submitted that whether the promise of marriage was made with an intention to deceive or whether it was genuine and later failed due to unforeseen circumstances, is a matter which will be determined only during the course of trial. He, therefore, urged that the applicant may be released on bail, as further custodial interrogation is not necessary.

6. On the other hand, the learned Additional Public Prosecutor and the learned Advocate appointed for the victim strongly opposed the grant of bail. It was submitted that the allegations are of serious nature, involving the offence of rape committed repeatedly under the pretext of marriage. They emphasized that the applicant was already a married person, and therefore, the promise of marriage made to the victim was false from the beginning, amounting to a calculated deception. Hence, it was argued that the applicant does not deserve to be released on bail at this stage, considering the gravity of the offence and the psychological trauma suffered by the victim.

7. Upon perusal of the First Information Report, the statement of the victim recorded under Section 161 of BNSS and the material placed on record, it appears that the relationship between the applicant and the victim was of a prolonged nature, lasting over several months. It is also not in dispute that the victim was a major, aged around 28 years at the time of the first alleged incident of sexual relations.

8. The specific allegation of the victim is that the applicant engaged in sexual relations with her on the promise of marriage,

which she claims was false and misleading. However, the record reveals that the victim and the applicant were in a consensual relationship for a substantial period. The victim has herself stated that the applicant used to visit her home and had lunch with her family members. This conduct, taken at face value, indicates a relationship which had elements of mutual intimacy and emotional involvement.

9. Whether the promise of marriage was false at its inception, or whether the relationship subsequently broke down due to some personal developments, especially in light of the applicant being a married man, are issues which require detailed evidence and appreciation during trial. At this stage, such questions cannot be conclusively determined.

10. It is also significant to note that there is no allegation of physical force or coercion used by the applicant in the course of the relationship. The delay in lodging the FIR—particularly after the alleged discovery of the applicant's marital status—is another factor that merits consideration in the context of bail.

11. The applicant is in custody since 12th January 2025, and investigation in the matter appears to be complete, with the charge-sheet having been filed. Therefore, further custodial interrogation is not necessary. The applicant is a permanent resident of the local area and does not appear to be a flight risk. With appropriate conditions, the possibility of tampering with evidence or influencing the victim can also be addressed.

12. Hence, considering the totality of circumstances, this Court is of the opinion that a case for grant of bail is made out.

13. Hence, the following order:

(a) The Bail Application stands allowed.

(b) The applicant shall be released on bail in connection with Crime Register No. 602 of 2024 registered with Vitthalwadi Police Station, District Thane, under Sections 376, 376(2)(n) of IPC, on 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 learned Trial Court.

(c) The applicant shall not directly or indirectly make any contact with the victim or family members of the victim or any prosecution witnesses, and shall not tamper with the evidence in any manner.

(d) The applicant shall report to the concerned police station once in every month (i.e., on 1st day of every month) between 10:00 a.m. to 12:00 noon, until further orders.

(e) The applicant shall furnish his current residential address and mobile number to the Investigating Officer, and shall inform the Investigating Officer of any change in address or contact details forthwith.

(f) In case of any breach of the conditions mentioned above, the prosecution shall be at liberty to move for cancellation of bail.

14. The Bail Application is accordingly disposed of in above terms.

(AMIT BORKAR, J.)