

AGK

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

BAIL APPLICATION NO.1222 OF 2025

Rupesh Parshuram Gawand	... Applicant
V/s.	
The State of Maharashtra	... Respondent

Mr. Ansari Shahed Ali Inayat Ali for the applicant.

Mrs. Rajashree V. Newton, App for respondent No.1-State.

Ms. Kanchan Pawar i/by Mr. Rohan Barge for respondent No.2.

Ms. Supriya S. Yadav, Victim, is present in person.

Mr. Bhagwan Palve, PSI, Kashigaon Police Station, is present.

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CORAM : AMIT BORKAR, J.

DATED : JULY 23, 2025

P.C.:

1. By the present application filed under Section 483 of the Bhartiya Nagarik Suraksha Sanhita, 2023 (hereinafter referred to as “BNSS”), the applicant seeks his release on regular bail in connection with Crime Register No. 370 of 2024 registered with Kashigaon Police Station, Mira-Bhayandar, for offences punishable under Sections 376, 417, 504, and 506 of the Indian Penal Code, 1860 (“IPC” for short).

2. As per the case of the prosecution, the prosecutrix is a 37-year-old divorcee and mother of a 16-year-old daughter. It is

alleged that she came in contact with the applicant in the year 2017, and again in 2019 when the applicant re-initiated contact. From that point onward, they started meeting frequently. In December 2020, the applicant is stated to have proposed marriage to her and, after obtaining her consent, introduced her to his parents. Thereafter, it is alleged that the applicant performed an engagement ceremony with her at Mahadev Temple, Dahisar, Mumbai on 14th May 2021. Subsequent to this, it is alleged that the applicant took her to various resorts and established physical relations under the false pretext of marrying her, sometime around June 2021.

3. Further allegations reveal that on 21st June 2021, the applicant is said to have solemnized a marriage with the prosecutrix at a temple in Pushkar, Rajasthan, in the presence of his mother. She was allegedly informed by the applicant's mother that a reception would be held later in Mumbai. Thereafter, the prosecutrix started residing with the applicant at his Panvel residence as his wife. They also used to visit the house of the applicant's paternal aunt at Chunabhatti, where it is alleged they continued to have physical relations. During this time, the applicant is said to have taken an amount of ₹5,00,000/- from the prosecutrix, under the pretext of repaying a loan against his house in Udaipur.

4. In October 2021, the prosecutrix claims to have celebrated Karva Chauth at the farmhouse of the applicant's friend, Gautam, at Karjat. She further alleges that the applicant used to make video calls to her every morning, but one day, she noticed changes in the

background of the house during the call, raising suspicion. When she inquired, the applicant gave vague replies. Later, she heard the voice of another woman during a call, who was claimed by the applicant to be the wife of his uncle's son. When she went to Chembur, she saw the applicant leaving with a lady and a young boy. On inquiry, the watchman of the premises informed her that the woman and child were in fact the applicant's wife and son. Upon confrontation, the applicant allegedly stated that he was in the process of divorcing his wife but still met his son occasionally. It is also alleged that the applicant made further monetary demands, in response to which the prosecutrix handed over gold ornaments weighing about 4 tolas. While a necklace and earrings were later returned, when she demanded return of the remaining jewellery in December 2021, the applicant allegedly called her to Tiyyamo Cafe, where he threw a drink on her face and threatened her with physical harm. When she approached Mulund Police Station, the applicant allegedly escaped by pretending to cry.

5. The prosecutrix has further stated that when she reminded the applicant about their marriage, he flatly refused to acknowledge the relationship and demanded more money if she wished to continue staying with him. In September 2023, it is alleged that he demanded sexual favours in a car and, upon refusal, assaulted her with a punch on the nose, causing her injuries for which she had to undergo medical treatment. Again, in November 2023, when she sought return of her money and jewellery, he allegedly used abusive language in WhatsApp messages and told her to forget the marriage. On the basis of these

allegations, the prosecutrix has contended that the applicant had established physical and sexual relations with her on the basis of false promises, misrepresentation, and suppression of his existing marriage.

6. Learned counsel for the applicant submitted that the relationship between the applicant and the prosecutrix commenced in the year 2019 and continued till the FIR was filed in October 2024. It was pointed out that as per the prosecutrix herself, an engagement ceremony was performed on 14th May 2021, followed by a marriage on 21st June 2021 at a temple in Pushkar, Rajasthan, attended by the applicant's mother. Thereafter, they lived together as husband and wife. It is submitted that the prosecutrix willingly transferred ₹5,00,000/- to the applicant. Counsel therefore contended that the entire relationship appears to have been consensual in nature, and the allegations that the applicant concealed the fact of his previous marriage do not by themselves amount to an offence under Section 376 IPC. It is argued that the dispute is of a personal nature arising from a failed relationship, and the applicant may be enlarged on bail.

7. On the other hand, the learned APP appearing for the State and the learned counsel appointed to represent respondent No.2 (victim) have strongly opposed the bail application. The prosecutrix is also personally present in Court and has filed her written say, which is taken on record and marked as 'X' for identification. In her written submission, the prosecutrix has reiterated the allegations made in the FIR and has also alleged that the investigation has not been carried out in a fair and impartial

manner. She has further stated that the applicant is associated with anti-social elements and has a habit of indulging in similar acts of deception and abuse with other women. It is specifically contended that the applicant intentionally suppressed the material fact of his existing marriage, made false promises of marriage to obtain her consent for physical relations, and thereafter exploited her both physically and financially. It is, therefore, submitted that the applicant does not deserve the discretionary relief of bail.

8. I have carefully considered the rival submissions advanced on behalf of the applicant, the State, and the victim. I have also perused the material placed on record, including the contents of the FIR, the statement of the victim, and the other documents annexed with the bail application.

9. On a prima facie evaluation, it appears that the relationship between the applicant and the prosecutrix began in the year 2019 and continued till the lodging of the FIR in October 2024. The prosecutrix has admitted that she willingly entered into the relationship with the applicant, accepted his proposal of marriage, participated in an engagement ceremony in May 2021, and thereafter allegedly married the applicant at Pushkar in June 2021 in the presence of his mother. They thereafter lived together as husband and wife at the applicant's Panvel residence. The FIR further indicates that they continued to meet and cohabit intermittently, including visits to the houses of relatives and friends, and celebrated occasions such as Karva Chauth together. These facts indicate that the relationship was long-standing and of a voluntary nature.

10. The core of the allegations pertains to the claim that the applicant suppressed the fact of his earlier marriage and, by giving false assurances of divorce and marriage, induced the prosecutrix into a sexual relationship. Whether such suppression amounts to deception sufficient to vitiate the consent under Section 375 IPC, or whether the prosecutrix was fully aware of the applicant's marital status and still continued the relationship, is a matter of trial and cannot be conclusively determined at this stage.

11. Furthermore, it is to be noted that the FIR has been lodged after a considerable lapse of time. Although the prosecutrix alleges emotional and financial exploitation, much of the material placed on record indicates a deeply personal and complicated relationship. The complaint itself shows that the prosecutrix continued to associate with the applicant even after allegedly discovering about his wife and child. There are no medical papers indicating repeated physical assaults except for a solitary incident, which also requires further investigation.

12. It is also not the case of the prosecution that the applicant has a criminal antecedent. The custodial interrogation of the applicant is not shown to be necessary. The investigation appears to have progressed to a substantial extent, and the applicant has been in custody since his arrest. The chargesheet, if not already filed, would be filed shortly. The applicant has roots in society and is unlikely to abscond.

13. At this stage, this Court is not expected to conduct a mini-trial. The only consideration is whether the applicant's continued

custody is necessary for the purposes of investigation or trial, or whether there is a reasonable apprehension that he may tamper with the evidence or influence the witnesses.

14. Having regard to the overall circumstances, the nature of allegations, the prolonged and consensual nature of the relationship, the delay in registration of the FIR, and the absence of any criminal antecedents, I am of the considered opinion that the applicant deserves to be enlarged on bail, subject to appropriate conditions.

15. Hence, following order is passed.

- i) The bail application is allowed;
- ii) The applicant is directed to be released on regular bail in connection with Crime Register No.370 of 2024 registered with Kashigaon Police Station, Mira Bhayandar for offences punishable under Sections 376, 417, 504, 506 of the Indian Penal Code, 1860 ("IPC" for short), upon furnishing a personal bond of Rs.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 the Kashigaon Police Station, Mira Bhayandar on first Monday of every month between 10.00 a.m. to 12.00 noon, until further orders.
 - b) The applicant shall not contact the victim, directly or indirectly during the pendency of the trial.

- c) The applicant shall not tamper with the evidence or attempt to influence any witness.
 - d) The applicant shall not enter the jurisdiction of concerned Police Station, during the pendency of trial.
 - e) The applicant shall appear before the Trial Court on every date of hearing unless prevented by sufficient cause.
 - f) The applicant shall not leave the territorial jurisdiction of the Trial Court without prior permission.
 - g) The applicant shall not indulge in any criminal activity during the pendency of the trial.
 - h) Any breach of these conditions shall result in the prosecution moving for cancellation of bail before the Trial Court.
16. The bail application is allowed and disposed of.

(AMIT BORKAR, J.)