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

BAIL APPLICATION NO.2477 OF 2025

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Mohammad Samir Raish Khan	... Applicant
V/s.	
The State of Maharashtra	... Respondent

Mr. Sudeep Pasbola, Senior Advocate with Aditya Sonawane, S. V. Khot, Shubham G. Ayush Pasbola and Sachin Misra i/by Sahil Choudhari and Pranothi Pawar for the applicant.

Mr. Sagar R. Agarkar, APP for the State.

Mr. Arvind Kamble, PI, and Chavan R. K., PSI, Kandivali Police Station are present.

CORAM : AMIT BORKAR, J.

DATED : JULY 10, 2025

PC.:

1. By the present application filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023, the applicant seeks his release on regular bail in connection with Crime No.270 of 2025 registered with Kandivali Police Station, Mumbai, for offences punishable under Sections 64 and 69 of the Bharatiya Nyaya Sanhita, 2023.

2. The case of the prosecution, in brief, is as follows: The first informant is a 24-year-old woman who resides with her mother, her 14-year-old sister, and her 4-year-old son. She works as a cook in Vasant Oasis and supports her family through her earnings.

3. According to the prosecution, the informant was married to

one Amod Paswan on 13.06.2019 in Bhilani Shivanagar, Bihar, as per social customs. Her husband was employed in a bag manufacturing company in Mumbai. However, after marriage, she was not brought to Mumbai. Allegedly, the husband used to physically assault her, and therefore, she took the decision to separate from him after informing the village panchayat. From the said wedlock, a male child was born, who is now four years old. It is further stated that her husband thereafter married another woman.

4. The informant started residing in Mumbai about five years ago, first at Gaodevi, Marol, Andheri, and later shifted to Ganesh Pada, Marol Military Road, Andheri (East), along with her family. In July 2022, she came in contact with the present applicant through her friend Faizal Sahil. Initially, they interacted through mobile chats and then began meeting in person. At that time, both had agreed to remain friends, and they remained so for about a month.

5. Thereafter, it is alleged, the applicant expressed his romantic interest in the informant and proposed that they should stay together. The informant disclosed that she had a child and would not stay without him. The applicant reportedly accepted this and continued meeting her. After a few meetings, the applicant is stated to have proposed marriage and persuaded the informant not to worry.

6. It is alleged that on 5.03.2024, which was the birthday of the informant, she expressed her wish to celebrate the occasion by

cutting a cake in a hotel. However, the applicant took her to Hotel Samadhan Lodging near Kandivali (West) Railway Station, saying she would like the place. Inside the room of the said lodge, he allegedly forced the informant to establish physical relations with him. When the informant resisted, he allegedly reassured her by promising marriage, after which physical relations took place.

7. The prosecution further alleges that thereafter, the applicant took the informant to the same lodge on five occasions under the same pretext and had physical relations with her. On 13.12.2024, around 6:00 p.m., he again called her to Andheri and took her to Kandivali, and similar events occurred. In February 2025, when the applicant again called her, she refused, but he insisted by stating that Ramzan was approaching, and they would not be able to meet later. On 5.03.2025, the applicant transferred ₹3,500/- to the informant's GPay account as a birthday gift, despite her refusal to accept money.

8. It is further alleged that on 2.04.2025, when the informant inquired about their marriage, the applicant declined, saying, “Mujhe aage bahut kuch karna hai, main tumhare sath shaadi nahi kar sakta.” Thereafter, he began avoiding her calls and meetings. When the informant’s sister, Shivani Paswan, contacted the applicant, he allegedly threatened that he would commit suicide by writing a note in her name if they continued troubling him. Subsequently, whenever the informant contacted him to talk about marriage, he allegedly avoided her and said, “Tumko jo karna hai kar lo.” Feeling helpless and distressed, the informant consumed rat poison on 9.04.2025, after which she was hospitalized and

discharged on 16.04.2025. Thereafter, the FIR came to be lodged.

9. Learned counsel appearing for the applicant has submitted that the relationship between the applicant and the informant was consensual and continued for nearly three years. It is pointed out that the informant is a major and a mother of a four-year-old child. The FIR itself narrates that she had voluntarily accompanied the applicant on multiple occasions. It is submitted that there was no misrepresentation or false promise at the inception of the relationship. On these grounds, the applicant seeks regular bail.

10. Per contra, the learned APP appearing for the State opposed the present bail application. It was submitted that the applicant had given a promise of marriage to the informant, and relying on that promise, the informant gave her consent for establishing physical relations. However, the applicant subsequently refused to marry her. Therefore, it is argued that the consent obtained was not free and voluntary, but was induced by a false promise of marriage. Hence, according to the prosecution, the ingredients of the offences alleged under Sections 64 and 69 of the Bharatiya Nyaya Sanhita, 2023 are clearly attracted. The learned APP therefore submits that the applicant is not entitled to be released on bail at this stage.

11. I have heard the learned advocate for the applicant and the learned APP for the State. I have perused the material placed on record including the FIR and the case diary.

12. The facts on record clearly show that the relationship between the applicant and the informant was not of a casual

nature or a one-time incident. Rather, it appears that they were known to each other for almost three years, during which period they met on multiple occasions, sometimes in public places and sometimes in lodges, and shared an ongoing relationship. The FIR itself reflects that the informant is a major and was aware of her own personal circumstances, including her prior marriage and child.

13. The version in the FIR and the conduct of the informant, including her accepting monetary transfers from the applicant, suggest that the relationship may have been based on mutual understanding and consent. The element of false promise leading to physical relations, which constitutes the core of the offence under Section 69 of the Bharatiya Nyaya Sanhita, 2023, will have to be tested at the time of trial. At this stage, it cannot be conclusively said that the applicant had dishonest intention from the inception.

14. The applicant is a permanent resident and there is no material to indicate that he is likely to abscond or tamper with the evidence. The investigation appears to be complete and charge-sheet has already been filed.

15. In such circumstances, continued incarceration of the applicant is not warranted, especially when the entire case rests on the interpretation of a consensual relationship which allegedly turned sour due to breakdown in trust.

16. Hence, in view of the above discussion, this Court is of the opinion that the applicant deserves to be released on bail, subject

to certain conditions.

17. Hence, the following order is passed.

18. The applicant Mohammad Samir Raish Khan is directed to be released on bail in connection with Crime No.270 of 2025 registered with Kandivali Police Station, Mumbai for offences punishable under Sections 64 and 69 of the Bharatiya Nyaya Sanhita, 2023, 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 not tamper with the evidence or attempt to influence any witness.
- b) The applicant shall appear before the Trial Court on every date of hearing unless prevented by sufficient cause.
- c) The applicant shall report to the Kandivali Police Station on the first Monday of every three month between 10.00 a.m. and 12.00 noon, until further orders.
- d) The applicant shall not leave the territorial jurisdiction of the Trial Court without prior permission.
- e) The applicant shall not indulge in any criminal activity during the pendency of the trial.

19. The bail application stands disposed of in the aforesaid terms.

(AMIT BORKAR, J.)