

AGK

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

BAIL APPLICATION NO.3512 OF 2025

Akshay Suresh Pawar

... Applicant

V/s.

The State of Maharashtra & Anr.

... Respondents

Mr. Kuldeep S. Patil with Ms. Saili N. Dhuru for the applicant.

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

Mr. Dhanesh Sharma with Mr. Gaurav Sharma for respondent No.2 (appointed as Legal Aid).

Mr. A.G. Marskole, PSI, Poynad Police Station, District Raigad, is present.

CORAM : AMIT BORKAR, J.

DATED : OCTOBER 13, 2025

P.C.:

1. The present application is filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 ("BNSS" for short), seeking regular bail in connection with Crime Register No. 33 of 2025 registered with Poynad Police Station for offences punishable under Sections 69 and 64(2)(f) of the Bharatiya Nyaya Sanhita, 2023 ("BNS" for short).

2. As per the prosecution, the complainant is a transgender person since birth. In 2023, she underwent a surgery and became a woman. The applicant is the brother-in-law of the complainant's brother and used to visit her house frequently. In October 2023,

the applicant's parents brought him to the complainant's house stating that he had a dispute with his wife and requested that he be allowed to stay there for a few days. The complainant agreed and allowed him to stay. The applicant was aware of her surgery but still questioned her about it and confirmed whether she had become a woman. After learning this, the applicant proposed marriage to her. The complainant reminded him that he was already married, to which the applicant replied that he had divorced his wife. The complainant sought some time to consider the proposal. After a few days, the applicant again proposed, and the complainant agreed to marry him.

3. Thereafter, the applicant took the complainant to his native place and introduced her to his parents, relatives, and villagers as his partner. The complainant also informed her family about their relationship. They travelled to several places together. The applicant repeatedly insisted on establishing physical relations, but the complainant declined, stating that she would do so only after marriage. In November 2025, around 3.00 p.m., while they were at her residence, the applicant offered her a pattice. After eating it, she went to sleep and woke up around 7.30 p.m. She felt physical pain and realized that despite her refusal, the applicant had taken undue advantage of her condition and had physical relations without her consent. When confronted, the applicant told her that since they were going to marry, he had done nothing wrong. Thereafter, on several occasions, he established physical relations with her on the promise of marriage. Their relationship continued thereafter.

4. In February 2025, the applicant's wife came to the complainant's house, abused her, and threatened her. She disclosed that the applicant had not divorced her and forcibly took him away. When the complainant called the applicant, he informed her that he had not divorced his wife and would not marry her. The next day, when the complainant met him, the applicant admitted that he had lied about the divorce. Realizing that she had been deceived, the complainant filed a First Information Report alleging that the applicant had established physical relations with her under the false promise of marriage.

5. Learned Advocate for the applicant submitted that even as per the FIR, the complainant and applicant were relatives, and hence, the complainant was aware of the applicant's marital status. He argued that the FIR itself shows that both resided together for six months, indicating a consensual relationship. No element of coercion or force is reflected from the narration in the FIR. He further submitted that the FIR was lodged only after the applicant had filed a written complaint before the Superintendent of Police, Raigad, on 11 March 2025, which shows that the FIR is retaliatory in nature. The applicant was arrested on 17 April 2025. It was submitted that considering these facts, the applicant deserves to be released on regular bail.

6. On the other hand, learned APP and learned Advocate appointed for the victim opposed the application. They submitted that the allegations are grave. The applicant, despite being married, continued his relationship with the complainant on a false promise of marriage and thereby misled her. It was contended

that the conduct of the applicant shows deliberate deception and, therefore, the application for bail deserves to be rejected.

7. Having considered the material on record and the rival submissions, the following aspects emerge.

8. First, the allegations in the FIR indicate that the relationship between the applicant and the complainant was voluntary in its inception. It is undisputed that they were acquainted and related to each other through family ties. The complainant herself permitted the applicant to stay at her residence and continued to reside with him for about six months. During this period, they travelled together and maintained a relationship which, by all appearances, was consensual.

9. Second, the FIR does not disclose that at the initial stage the applicant used any force, threat, or coercion. The alleged sexual relationship appears to have taken place during the course of a continued association between two adults. Whether the relationship was based on a false promise of marriage or mutual consent is a matter that requires evidence and can be established only during trial. At this stage, the allegations rest primarily on the version of the complainant and would require corroboration.

10. Third, it is also relevant that the FIR came to be lodged after a considerable lapse of time and subsequent to the applicant filing a complaint before the Superintendent of Police. The sequence of events gives rise to a reasonable doubt about the immediate spontaneity of the complaint and suggests that the dispute may have an element of personal discord.

11. Fourth, the investigation appears to be substantially complete. The applicant has been arrested on 17 April 2025 and has remained in custody thereafter. There is no material to show that his further detention is necessary for investigation or that he poses a flight risk. There is also nothing on record to indicate that he has attempted to threaten or influence witnesses.

12. Fifth, the offences alleged are not punishable with death or imprisonment for life. The trial is likely to take time. Prolonged pre-trial detention would serve no purpose when the applicant can be secured by reasonable conditions.

13. In view of these circumstances, this Court finds that the applicant has made out a case for grant of regular bail. Appropriate conditions can be imposed to ensure his presence during trial and to prevent any interference with the course of justice.

14. Hence, the applicant deserves to be released on bail.

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.33 of 2025 registered with Poynad Police Station for offences punishable under Sections 69, 64(2)(f) of the BNS, upon furnishing a personal bond of Rs.25,000/- (Rupees Twenty Five Thousand Only) with one or more sureties in the like amount, to the satisfaction of the Trial Court, subject to the following

conditions:

(a) The applicant shall not tamper with evidence, or directly or indirectly contact, influence, threaten, or intimidate any witness, particularly family members of the victim.

(b) The applicant shall report to the Poynad Police Station once in a month, specifically on the first Monday of each month, between 10:00 a.m. and 12:00 noon, until further orders.

(c) The applicant shall not commit any offence or engage in any criminal activity during the pendency of the trial.

(d) The applicant shall, at the time of furnishing surety, provide his current residential address and mobile number to the Investigating Officer as well as the Trial Court, and shall inform the Court in writing of any change in residence or contact details during the pendency of the case.

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

16. The bail application is allowed and disposed of.

(AMIT BORKAR, J.)