



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**NAGPUR BENCH : NAGPUR**

**CRIMINAL APPLICATION (ABA) NO.240 OF 2025**

Sunil Nandu Sapkal

Vs.

State of Maharashtra, through Police Station Officer, Shegaon, District  
Buldhana and another

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Office Notes, Office Memoranda of Coram,  
appearances, Court's orders of directions  
and Registrar's orders

Court's or Judge's orders

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Mr. A. V. Chirde, Counsel a/w Mr. A. A. Zade, Counsel for the applicant.  
Mr. N. B. Jawade, APP for non-applicant/State.  
Ms. Shreya H. Bhagat, appointed Counsel for the non-applicant/State.

**CORAM : URMILA JOSHI-PHALKE, J.**  
**DATED : 09/06/2025**

1. Apprehending the arrest at the hands of Police in connection with Crime No.57/2025 registered with Police Station Shegaon, District Buldhana for the offence punishable under Section 64(1) of the Bharatiya Nyaya Sanhita, 2023, the applicant approached this Court for grant of pre-arrest bail.

2. Heard learned Counsel for the applicant, who submitted that the crime is registered on the basis of report lodged by the victim aged about 26 years on an allegation that she got acquaintance with the present applicant and the present applicant has called her at Khamgaon, therefore she went to meet him at Khamgaon in one lodge, and on the promise of marriage, he has subjected her for the forceful

sexual assault. Learned Counsel for the applicant submitted that considering the recitals of the FIR, it reveals that it is a consensual act. The FIR is lodged after five months of the incident. As far as the custodial interrogation is concerned, which is not required. In view of that, the applicant be released on anticipatory bail.

3. Learned APP strongly opposed the said application and submitted that from the recitals of the FIR and the entire charge-sheet it reveals that on the promise of marriage, the present applicant has subjected her for the forceful sexual assault. In view of that, the application deserves to be rejected.

4. On hearing both sides and on perusal of investigation papers, it reveals that the applicant and victim got acquaintance with each other and therefore, they were communicating with each other and on the say of the applicant, she has visited a lodge and physical relationship was developed between them. Thus, considering the recitals of the FIR, it reveals that it was a consensual act. As far as custodial interrogation is concerned, which is not required. In view of that, the application deserves to be allowed.

5. In view of the observation of the Hon'ble Apex Court in the case of *Dr. Dhruvaram Murlidhar Sonar Vs. The State of Maharashtra & Ors. in Criminal*

***Appeal No.1443/2018 (Arising Out Of S.L.P (Criminal) No.6532 Of 2018)*** in para number 20 which reads as under:

*“20. Thus, there is a clear distinction between rape and consensual sex. The court, in such cases, must very carefully examine whether the complainant had actually wanted to marry the victim or had mala fide motives and had made a false promise to this effect only to satisfy his lust, as the later falls within the ambit of cheating or deception. There is also a distinction between mere breach of a promise and not fulfilling a false promise. If the accused has not made the promise with the sole intention to seduce the prosecutrix to indulge in sexual acts, such an act would not amount to rape. There may be a case where the prosecutrix agrees to have sexual intercourse on account of her love and passion for the accused and not solely on account of the misconception created by accused, or where an accused, on account of circumstances which he could not have foreseen or which were beyond his control, was unable to marry her despite having every intention to do. Such cases must be treated differently. If the complainant had any mala fide intention and if he had clandestine motives, it is a clear case of rape. The acknowledged consensual physical relationship between the parties would not constitute an offence under Section 376 of the IPC.”*

6. In view of the above discussion, the applicant has made out case for grant of anticipatory bail. Hence, I proceed to pass following order:

**ORDER**

(i) The application is allowed.

(ii) In the event of arrest in connection with Crime No.57/2025 registered with Police Station Shegaon, District Buldhana for the offence punishable under Section 64(1) of the Bharatiya Nyaya Sanhita, 2023, the applicant **Sunil Nandu Sapkal** shall be released on anticipatory bail on executing PR bond in the sum of Rs.25,000/- with one solvent surety in the like amount.

(iii) The applicant shall attend the concerned Police Station as and when required for the investigation purpose on issuing the notice of two weeks in advance.

(iv) The applicant shall not induce, threat or promise any witnesses who are acquainted with the facts of the case.

7. The fees of the appointed Counsel be quantified as per rules.

8. The application is disposed of.

**(URMILA JOSHI-PHALKE, J.)**