



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

CRIMINAL APPLICATION (ABA) NO. 401 OF 2025

Dhiraj Ashok Pimpalkar Vs State of Maharashtra

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr. A.A.Dhawas, counsel for applicant.

Mr. N.R.Rode, APP for non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 30/06/2025.

1. Apprehending the arrest at the hands of police in connection with Crime No.135/2025 registered with Police Station Telhara, District Akola for the offences punishable under Sections 64, 69, 351(2) and 352 of the Bharatiya Nyaya Sanhita, 2023 (BNS), the applicant approached this Court for grant of anticipatory bail.

2. The crime is registered on the basis of a report lodged by victim, who is aged about 26 years, on an allegation that she got acquaintance with the present applicant and the friendship was developed between them, which resulted into the love affair. The present applicant promised her for marriage and on the promise of marriage, subjected her for forceful sexual assault. On the basis of the said report, police have registered the crime against the present applicant.

3. Heard learned counsel for the applicant, who submitted that the relationship between the applicant and

the victim is of a consensual nature. Mere breach of promise is not sufficient to attract the provisions under Section 64 of the BNS. In view of that, the interim protection granted to the present applicant deserves to be confirmed.

4. Learned APP strongly opposed the said application and submitted that, under the misconception of the fact, the victim was subjected for sexual assault, and therefore, the application deserves to be rejected.

5. On hearing both sides and on perusal of the recitals of the FIR and the investigation papers, it reveals that the victim, aged about 26 years, got acquaintance with the present applicant, and developed a friendship, and thereafter there was a love affair between them. Thus, it appears from the statement of the victim, there was a consensual relationship between both of them. Mere breach of promise is not sufficient to attract the provisions of the alleged offence.

6. Furthermore, this aspect is also considered by 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) decided on 22/11/2018 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.”

7. In view of the above observation of the Hon’ble Apex Court, the applicant has made out a case for grant of anticipatory bail. Accordingly, I proceed to pass following order:

- a] The interim protection granted by the present applicant by order dated 11/06/2025 is hereby confirmed on the condition that applicant shall attend the concerned police station once in a week on every Monday between 10.00 AM and 1.00 PM and shall cooperate with the investigating agency.
- b] The applicant shall not induce, threat or promise any witnesses who are acquainted

with the facts of the case either personally or by way of electronic media.

- c] The applicant shall not enter into the vicinity of Malegaon Naka, Telhara, District Akola, till culmination of the trial.
- d] The contravention of any of the condition would lead to the cancellation of bail.

Criminal application is **disposed of**.

[URMILA JOSHI-PHALKE, J.]