



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

CRIMINAL APPLICATION (ABA) NO.803/2025

(Kalpak S/o Dineshrao Nehare Vs. State of Maharashtra, through P.S.O. P.S. Hudkeshwar, Nagpur)

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

Court's or Judge's orders

Mr. M.V. Rai, Advocate for the applicant.
Mr. Ujjawal Phasate, Advocate for the non-applicant/State.
Mr. M.G. Wagh, Advocate for the victim.

CORAM: MRS.VRUSHALI V. JOSHI, J.
DATED: 16.12.2025.

The applicant is apprehending arrest in Crime No.694/2025 for the offence punishable under Section 69 of the Bhartiya Nyaya Sanhita.

2. It is alleged that the applicant had sexual relations with the victim under the assurance of marriage. It is the case of prosecution that the applicant and the victim were acquainted on face book. According to victim, the applicant had given the assurance of marriage and thereafter they had physical relations since 6.12.2024 to 9.8.2025. It appears from the F.I.R. that they had monetary transactions and when the victim asked him to return the amount of Rs.3,00,000/- he avoided her and had not replied phone calls of the victim. Thereafter she informed about it to his father and his father had given the undertaking before the police that he will perform marriage of his son with the victim and the matter was settled in the police station and thereafter she has lodged the complaint.

3. The learned Advocate for the applicant has stated in the application that the victim was already married and thereafter when the applicant came to know about it, he refused to marry with her. The learned Advocate for the applicant has stated that the relations between the applicant and her was consensual. It is between two adults.

4. On the earlier date the learned Advocate for the applicant had stated that the victim was living with some other person and she has also given his name as a nominee in her service book and he will produce the copy of service book in which she has mentioned the name of said person as a nominee. Today the learned Advocate for the applicant states that the applicant had applied under Right to Information Act for the same but the applicant has taken objection to provide said information and, therefore, the said document is not produced on record.

5. The learned Advocate for the applicant has also relied on the observations of the Hon'ble Apex Court in the case of Prashant V/s. State of NCT of Delhi, particularly paragraph No.17, which read as follows:-

“17. In the present case, the issue that had to be addressed by the High Court was whether, assuming all the allegations in the FIR are correct as they stand, an offence punishable under Sections 376 and 506 IPC were made out. A bare perusal of the FIR reveals that the appellant and the complainant first came in contact in the year 2017 and established a relationship thereafter. The parties met multiple times at various places during the years 2017 and 2019, including at parks and their respective houses. Although the complainant stated that the appellant had a forceful sexual relationship with her, neither did she stop meeting the appellant thereafter, nor did she file a criminal complaint during the said period.”

Considering the observations, it reveals that the relationship was not in absence of voluntary consent on her part.

6. The learned A.P.P. has opposed the application stating that the applicant on affidavit has stated that victim is a married lady and thereafter by taking U-turn is stating about their live in relationship. He has not produced the document on record in this regard. On the contrary, victim is ready to produce her service book and disclose the name of nominee. The name of nominee is her brother. The applicant had assured that he will perform marriage with victim and on said false promise, has committed the sexual crime. Therefore, he has prayed to reject the application.

7. The victim has appeared through his Advocate and has stated that the applicant has cheated her, he had given assurance of marriage and had sexual relations with her and thereafter he denied. Custody of this applicant is necessary. The learned Advocate for the victim has relied on the judgment of the Hon'ble Apex Court in Criminal Appeal No.1834/2022 reported in 2022 LiveLaw (SC) 870 wherein the observations are made that the requirement of custodial interrogation is not the only for the purpose of further investigation or recovery and on that ground only anticipatory bail cannot be granted as the custodial interrogation is not required. Hence, prayed to reject the application.

8. Heard the respective Advocates for the parties and perused the record.

9. The applicant and the victim were having relationship since 6.12.2024 to August 2025. It is alleged that he had sexual relations

with her by giving false assurance of marriage. It appears that it is the consensual act by two adults. The victim has stated that it was under assurance of marriage and the father of applicant has given the undertaking but the reason given by the applicant is that he came to know about her earlier live in relationship and also the name of said person is mentioned as nominee in her service book. When the applicant tried to obtain the said service book, she objected to it and said service book was not produced before this Court. The service record which is produced by the victim is recent service record and there nominee is her brother.

10. Considering the allegations made against this applicant that under the assurance of marriage sexual offence is committed, which appears to be consensual, monetary transactions are reflected in the F.I.R. and as the custodial interrogation of this applicant is not necessary, application is allowed.

i) It is directed that in the event of arrest of the applicant- Kalpak S/o Dineshrao Nehare, in connection with Crime No.694/2025 for the offence punishable under Section 69 of the Bhartiya Nyaya Sanhita, the applicant shall be released on bail on furnishing P.R. Bond in the sum of Rupees Twenty Five Thousand each with one solvent surety in the like amount.

ii) The applicant shall not in any way tamper with the prosecution evidence.

iii) The applicant shall not pressurize or threaten the prosecution witnesses.

iv) The applicant shall attend the concerned police station as and when called by the Investigating Officer.

- v) The applicant shall co-operate with the Investigating Officer.
- 11. The application is allowed and disposed of accordingly.

(MRS.VRUSHALI V.JOSHI, J.)