IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 4110 OF 2026
IN APPEAL/327/2026

. Amit Lalkha Tadvi
Age: 24 years, Occu.: Driver,
R/o: Gondegaon, Tq.Jamner, District Jalgaon.
At present near Ayyapa Mandir, Plot No.5,
Satara Parisar, Chhatrapati
Sambhajinagar. ….Applicant
(Orig. Accused)

Versus

1. The State of Maharashtra
Through Police Station Officer,
Satara Police Station, Sambhajinagar.

2. XYZ ….Respondents

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Mr.Bhushan Mahajan, Advocate for Applicant.
Mrs.Chaitali Chaudhari Kutti, APP for Respondent No.1.
Mr.A.S.Tilve, Advocate for Respondent No.2.

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CORAM : ABHAY S. WAGHWASE, J.

Reserved on : 04 NOVEMBER, 2026
Pronounced on : 05 NOVEMBER, 2026

ORDER :

1. Instant application is for suspension of substantive sentence and grant of bail as a result of Judgment and order of conviction rendered by learned Additional Sessions Judge, Chhatrapati Sambhajinagar on 27-02-2026 for offence under Sections 376(2)(n), 170, 417, 506 of the Indian Penal Code (IPC).

2. Learned counsel for the applicant in support of the relief would point out that, there were consensual relations between applicant and prosecutrix. That, she was a full grown girl of 25 years. That, initial acquaintance grew in love relations regarding which there is no denial. That, alleged physical contact is of 19-09-2023 and that is solitary one. Learned counsel pointed out that, inspite of it being solitary episode, learned trial Court has rendered conviction under Section 376(2)(n) of the IPC even when said provision gets attracted only when there are repeated rapes on same woman. According to him, here, there were no repeated rapes and moreover, physical contact was consensual. He further pointed out that, though there is allegation of breach of promise of marriage, victim in her cross-examination has admitted that, accused had never refused or denied to marry her. He pointed out that, there are allegations of threats by showing photographs of both of them together, but she admitted that, photographs are not obscene or indecent. That, she also admitted in cross-examination that she had made detailed enquiry about accused. He pointed out that, after 4-5 months, she claims to have realized about true identity of the accused and thereafter, belated FIR is registered on 21-02-2024. Learned counsel for the applicant placed on record affidavit as required in view of judgment of Hon'ble Apex

Court in the case of *Zeba Khan v. State of U.P., 2026 INSC 46.* He also relied on Judgment dated 30-10-2026 passed by the Hon'ble Apex Court in the cases of *Santhosh Kumar N.P. v. State-Station House Officer, Kadirur Police, Tellicherry, Kannur District and Another*, in Criminal Appeal arising out of SLP (Cri.) Nos.10173-10174 of 2025 and the orders of this Court passed in Criminal Application No.2678 of 2024 dated 09-08-2024; Bail Application No.389 of 2024 dated 29-04-2024; Criminal Application No.2271 of 2026 dated 04-08-2026; Criminal Application No.1237 of 2026 dated 04-09-2026; Criminal Application No.1706 of 2026 dated 09-07-2026; Interim Application No.2348 of 2021 dated 02-02-2022;

3. In answer to above, learned counsel for victim would submit that serious offence is proved to be committed. That, accused falsely projected himself to be a Police Officer and he achieved trust of the victim. That, against her wish, he forcibly maintained physical relations. That, he tried to use their photographs to threaten her. That, he also threatened to commit suicide. That, applicant was never on bail and even Hon'ble Apex Court has rejected his prayer for bail. That, he was throughout a under trial prisoner and that he has similar crimes registered against him. Learned counsel for victim also seeks reliance on judgments of the Hon'ble Apex Court passed in the

cases of State of *H.P. v. Mango Ram, 2000 AIR (SC) 2798; State of U.P. v. Naushad, 2014 AIR (SC) 384; Preet Pal Singh v. State of Uttar Pradesh and Another, 2020 AIR (SC) 3995*.

4. learned APP would also oppose the application on the ground that, on the pretext of marriage and by projecting himself as Police Officer accused gained trust of the prosecutrix. That, against her wish, he maintained physical relations. That, finding her testimony credible, learned trial Court has rendered conviction and therefore, serious offence being proved, she also opposes relief of suspension of sentence and grant of bail.

5. After hearing above submissions, papers placed on record are put to scrutiny.

Here is an application for suspension of sentence awarded by learned trial Court for offence under Sections 376(2)(n), 170, 417, 506 of the IPC. Prosecution papers show that case of prosecution in trial Court was rested on evidence of 9 witnesses.

At this stage, evidence of PW1 victim, which is at Exhbit 26, is crucial and therefore, same is visited. It appears there from that victim is 25 years of age and as such, thus an adult. It appears that, accused was their tenant and he seems to have come in her contact

after he has extended help when victim's mother met with a mishap and then she claims that, she learnt from him that he was a Police officer and he also took her to Office of Commissioner of Police as well as shown his identity card. Then she claims that their friendship grew in love relations. Thus, admittedly there is love relations. She claims that, on 19-09-2023, when her mother was not in the house, he came and maintained forceful physical relations. Her further testimony shows that, 2-3 days thereafter, she herself, her own brother as well as accused also went for darshan at Lalbaug at Mumbai and there, they snapped photographs, but according to her, he started blackmailing her on said photographs and demanded physical relations. According to her, he also threatened to commit suicide. He started threatening her after getting drunk. Then on 13-02-2024 she claims to have checked his mobile and claims that whatever he told about himself was all false and therefore, he was questioned. She claims that, marriage proposal still came through his friend. That, her many photographs are with him and by showing it, he was threatening her and therefore, she has approached Police.

6. As pointed out, in cross-examination, she has admitted that, she wanted to marry accused. She candidly admittedly that, her photographs with him are not obscene. She also admitted that, she

was aware that, her family members would not approve love relationship. In cross-examination, she states that, for the first time, when he had intercourse with her, that time, he had promised to marry her, but apparently in her examination-in-chief, she merely stated that on 19-09-2023 when her mother was not in the house, he came and had forcible sexual relations and as such, she does not speak about any promise of marriage on that day. She also admitted in paragraph 3 of cross-examination that, accused did not refuse to marry her. She also admitted that, prior to maintaining physical relations, all details of the accused were obtained. In paragraph 9, as pointed out, she has also admitted that, while maintaining physical relations, precaution was taken to use contraceptive.

Thus, here, victim is a full grown lady, moreover, she is taking higher education. She has admitted love relations. Though she claims that he threatened to make her photographs viral, she in cross-examination has admitted that, said photographs were not obscene. Again as pointed out, there is conviction under Section 376(2)(n), but clause (n) required repeated rapes on the same woman. Here, *prima facie* atleast from the testimony of the victim, it appears that there is only one episode dated 19-09-2023. Therefore, taking such testimony of victim into account, this Court is of the opinion that there are good grounds to be dealt but in appeal.

Learned counsel for applicant as well as learned counsel for victim has placed reliance on above referred rulings and judgments, but facts in those cases are distinct and as such cannot be taken aid of.

In view of above discussion, relief as prayed deserves to be granted. Accordingly, following order is passed :

ORDER

I. The Criminal Application is allowed.

II. The substantive sentence imposed on the applicant Amit Lalkha Tadavi by the learned Additional Sessions Judge, Chhatrapati Sambhajinagar on 27-02-2026, stands suspended till the final hearing and disposal of Criminal Appeal No.327 of 2026.

III. The applicant be released on P.R. Bond of Rs.15,000/- (Rupees Fifteen Thousand only) with two solvent sureties in the like amount.

IV. The applicant shall not commit any criminal activity.

V. The applicant shall remain present before the learned trial Judge once in six months, till final hearing and disposal of the appeal, commencing from the date he tenders bail papers and thereafter, the trial Judge to fix dates for his subsequent appearances.

VI. In case of two consecutive defaults on the part of the applicant to remain present before the trial court, the trial court to inform this court about the same and in that eventuality, the prosecution would be at liberty to file an application for cancellation of bail granted to the applicant.

VII. Bail before the trial court.

[ABHAY S. WAGHWASE, J.]

SPT