IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.4104 OF 2025

VISHAL MADHAV SAGARE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

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Shri P.P. More, Advocate for the applicant.
Shri D.B. Bhange, APP for respondent No.1/ State.
Shri Amol A. Kokad, Advocate for respondent No.2.

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CORAM : SUSHIL M. GHODESWAR, J.

DATE : 31 October 2026

Per Court :-

1. The applicant is seeking quashment of FIR bearing Crime No.222/2025 dated 12.07.2025 registered with the Aurad Shahajani Police Station, District Latur, for the offences punishable under Sections 366, 376, 376(2)(n), 377 of the Indian Penal Code and Sections 4, 8 and 12 of the Protection of Children from Sexual Offences Act. After completion of investigation, the charge-sheet is filed on 08.09.2025 and the order of issuance of process came to be passed on 08.09.2025 and the case is registered as Special Case (POCSO) No.23/2025 before the learned Additional Sessions Judge, Nilanga, District Latur.

2. Though, on the one hand, the learned advocate for the applicant/accused has vehemently canvassed for allowing the application and on the other hand, the learned APP appearing for the State and the learned advocate appearing for respondent No.2/ informant, have strenuously opposed the same. However, upon considering the submissions advanced by the learned counsel for the respective parties and upon perusal of the material available on record, including the FIR and the charge-sheet, I find that an elaborate discussion on the rival submissions is not necessary, as the issue involved in the present application is squarely covered by the judgment of the Hon'ble Supreme Court in ***Kunal Chatterjee vs. The State of West Bengal, 2025 LiveLaw (SC) 765***.

3. On perusal of the FIR lodged by respondent No.2/ informant dated 12.07.2025, it is revealed that the prosecutrix i.e. respondent No.2/ informant was aged about 16 years at the time of the alleged incidents. Her allegation is that on 07.02.2023, the applicant took her to a lodge near Baswakalyan on Hyderabad road and, on the pretext of marriage, had sexual intercourse with her. She has further alleged that on 24.03.2023, the applicant

again took her to Radhika Lodge at Latur and forcibly established physical relations with her. According to her, on 19.07.2023, the applicant once again took her to Nisarga Lodge on Aurad Shajani to Bidar Road and committed forcible sexual intercourse with her.

4. It is her further contention that on 21.08.2023, the applicant went to the United States of America. However, he remained in contact with her through social media platforms till February 2024. She has also alleged that on 13.10.2024, the applicant's father executed a bond on a stamp paper of Rs.100/-, stating therein that he would perform the marriage of his son with her. However, as the applicant did not return from America and was not responding to her calls on WhatsApp or Instagram, the prosecutrix appears to have lodged the report on 12.07.2025.

5. Admittedly, at the time of lodging the report, the prosecutrix was aged about 18 years and 9 months. However, the alleged incidents of sexual assault pertain to the year 2023. The case of the applicant is squarely covered by the judgment recently delivered by the Hon'ble Supreme Court in ***Kunal Chatterjee versus State of West Bengal (supra)***. In the said case,

the accused was being prosecuted for the offences punishable under Section 376 of the Indian Penal Code read with Section 6 of the POCSO Act. The prosecutrix therein was a major at the time of lodging the FIR, but had alleged that she was aged about 15 years when she entered into a consensual relationship with the accused. It was further alleged that she had agreed to enter into such a relationship on the promise of marriage given by the accused. In the aforesaid case, the Hon'ble Supreme Court, after referring to its earlier decisions, observed that a mere promise to marry, followed by a physical relationship between two persons with consent, would not constitute the offence of rape. In that context, reliance was placed upon the judgments in ***Prithviraj versus State***, 2025 SCC OnLine SC 696; ***Pramod Suryabhan Pawar versus State of Maharashtra***, (2019) 9 SCC 608; and ***Maheshwar Tigga versus State of Jharkhand***, (2020) 10 SCC 108. The Hon'ble Supreme Court further observed that, in the facts of the said case, there was absolutely no evidence, much less any forensic evidence, to establish that the accused had committed rape upon the prosecutrix when she was a minor. The allegations were made after a considerable delay of more than three years, apparently to attract the provisions of the POCSO Act, by

alleging that the act of sexual intercourse had taken place when the prosecutrix was a minor. The prosecutrix had also stated that she had consented to the relationship on account of the promise of marriage allegedly given by the accused. In the aforesaid circumstances, having regard to the nature of the material collected by the prosecution and, particularly, the inordinate delay in lodging the FIR, the Hon'ble Supreme Court held that the continuation of the criminal proceedings would amount to an abuse of the process of law. It was observed that the High Court ought to have exercised its inherent jurisdiction in the facts of that case. Accordingly, the appeal was allowed.

6. In view of the aforesaid judgment of the Hon'ble Supreme Court, no elaborate discussion is required. The facts of the present case, particularly the age of the prosecutrix at the time of lodging the report, the nature of the allegations regarding the alleged promise of marriage, and the considerable delay in lodging the report, are required to be considered in the light of the principles laid down therein.

7. It is also pertinent to note that the material collected by the Investigating Officer, including the statements of the

lodge owners, the medical evidence and the other material forming part of the charge-sheet, does not lend support to the allegations made by the prosecutrix. In that view of the matter, when the alleged incidents pertain to the year 2023 and the report came to be lodged only on 12.07.2025, and having regard to the material collected during the course of investigation, I am of the considered view that the case of the applicant is squarely covered by the principles laid down by the Hon'ble Supreme Court in *Kunal Chatterjee* (supra). Consequently, continuation of the criminal proceedings against the applicant would amount to an abuse of the process of law. The application, therefore, deserves to be allowed and the impugned FIR and consequential proceedings arising therefrom deserve to be quashed and set aside. Hence, the following order:-

ORDER

(a) The Criminal Application is allowed.

(b) The FIR bearing Crime No.222/2025 dated 12.07.2025 registered with the Aurad Shahajani Police Station, District Latur and the further consequential proceedings arising out of the said FIR, are quashed and set aside.

kps (SUSHIL M. GHODESWAR, J.)