



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO.3356 OF 2025

Mukund Bhanudas Bidwe,
age 41 years, Occ. Service,
R/o Bidve Vasti, Nadurkhi (Bk),
Tq. Rahata, District-Ahmednagar. Applicant.

Versus

The State Of Maharashtra,
Through Police Station Officer,
Kranti Chowk Police Station,
Tq. & District. Chhatrapati Sambhaji
City.

2. XYZ Respondents.

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Advocate for Applicant : Mr. A.A. Pawar
APP for Respondent no.1 : Mr. K.B. Jadhavar
Advocate for Respondent no.2 : Mr. Shah Navin

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CORAM : S. G. CHAPALGAONKAR, J.

Reserved on : February 04, 2026

Pronounced on : February 24, 2026

FINAL ORDER :-

1. The applicant seeks quashment of the FIR in Crime No.0109 of 2025 registered with Police Station, Kranti Chowk, Chhatrapati Sambhajnagar for the offence punishable under section 64(2)(m) and 69 of BNSS and consequential proceeding in Sessions Case No.282 of 2025 pending before the District Judge & Additional Sessions Judge, at Aurangabad.

2. The investigation was set in motion on the basis of report given by the respondent no.2. She was aged about 36 years. It is alleged that she used to reside at Pune. She came to Parbhani by Railway. She met with the applicant. They exchanged cell numbers. She was consistently receiving calls from the applicant. He expressed his willingness to marry with her and asked her to visit him at Aurangabad. On 14.6.2024 she arrived at Aurangabad. She met with applicant at Railway Station and proceeded to Ellora Lodge. They took dinner at Omsai Hotel. During stay at lodge, applicant forcibly established sexual relations. On second day he purchased clothes for her. They stayed together for three days at lodge. She was physically exploited by applicant. Thereafter, she continued her relationship with applicant for around one year. She visited Aurangabad for 4 to 5 times and stayed at same lodge with applicant. They maintained physical relations during such stay.

3. On 26.9.2024 again applicant invited her to Aurangabad. They resided together for three days and continued sexual relations. Applicant assured her to marry, however, lastly, he refused giving reason that one lady has filed a complaint against him and he is under mental trauma.

Aforesaid information was culminated into registration of FIR in Crime No.109 of 2025.

4. Investigation progressed, finally, charge-sheet has been filed against applicant. On committal of case by Magistrate, Sessions Case no.282 of 2025 is registered and pending trial before the Sessions Court, Aurangabad.

5. Mr. Pawar, learned advocate appearing for applicant would submit that this is a case of consensual sexual relations, hence, offences as alleged cannot be made out against the applicant. In support of his submissions, he relies upon observations of the Supreme Court in case of **Samadhan s/o Sitaram Manmothe Vs. State of Maharashtra and another reported in 2025 DGLS (SC) 1431**.

6. Per contra, learned APP submits that this is a case of rape under pretext of false promise of marriage. The triable case is made out on the basis of evidence in charge-sheet.

7. Having considered submissions advanced by learned advocates appearing for respective parties and upon perusal of FIR and contents of charge-sheet, it is evident that respondent no.2 is a mature lady aged about 36 years. She attends classes

at Pune by undertaking travel from her place of residence in District Buldhana. On 10.6.2024 conversation began between applicant and respondent no.2 during journey. Intimacy was developed. On invitation of applicant, she arrived at Aurangabad resided with him in a lodge for three days. The applicant purchased clothes for her. Episode of meeting at Ellora Lodge continued for eight months till lodging of FIR in April, 2025. During eight months period, she had consensual sexual relations with applicant. However, when applicant shown his disinclination to marry, FIR has been lodged.

8. In this background, reference can be given to the observations of the Hon'ble Supreme Court of India in case of in case of **Amol Bhagwan Nehul Vs. State of Maharashtra and Another reported in 2025 SCC Online SC 1230**, Supreme Court of India observed in paragraph no.9 as under :

“9. In our considered view, this is also not a case where there was a false promise to marry to begin with. A consensual relationship turning sour or partners becoming distant cannot be a ground for invoking criminal machinery of the State. Such conduct not only burdens the Courts, but blots the identity of an individual accused of such a heinous offence. This Court has time and again warned against the misuse of the provisions, and has termed it a folly to treat each breach of promise to marry as a false promise and prosecute a person for an offence under section 376 IPC.”

9. Similarly, in case of **Mahesh Damu Khare Vs. State of Maharashtra and another reported in (2024) 11 SCC 398**, Supreme Court of India cautioned against large number of cases wherein prolonged consensual relationships are sought to be criminalized after they later turn sour. Reference can be given to observations in paragraph nos.39 and 40, which reads thus :-

“39. In our view if criminality is to be attached to such prolonged physical relationship at a very belated stage, it can lead to serious consequences. It will open the scope for imputing criminality to such long term relationships after turning sour, as such an allegation can be made even at a belated stage to drag a person in the juggernaut of stringent criminal process. There is always a danger of attributing criminal intent to an otherwise disturbed civil relationship of which the Court must also be mindful.”

40. It is evident from the large number of cases decided by this Court dealing with similar matters as discussed above that there is a worrying trend that consensual relationships going on for prolonged period, upon turning sour, have been sought to be criminalized by invoking criminal jurisprudence.”

10. In case of **Naim Ahamed Vs. State (NCT of Delhi) and Prashant Bharti Vs. State (NCT of Delhi) reported in (2013) 9 SCC 293**, Supreme Court of India observed that prosecutrix who herself was married woman having three children, could not be said to have acted under alleged false promise given by appellant or under misconception of fact while giving consent

to have sexual relationship with appellant. Undisputedly, she continued to have such relationship with him at least for about five years till she gave complaint in year 2015. Even if allegations made by her in her deposition before Court, are taken on their face value, then also to construe such allegations as 'rape' by appellant, would be stretching case too far. The prosecutrix being married woman and mother of three children was matured and intelligent enough to understand significance and consequences of moral or immoral quality of act she was consenting to.

11. In case of **Pramod Suryabhan Pawar Vs. State of Maharashtra and another reported in (2019) 9 SCC 608** Supreme Court elaborately discussed issue as to consensual sexual relationship and observed in paragraph no.18 as under :

“18. To summarize the legal position that emerges from the above cases, the “consent” of a woman with respect to Section 375 must involve an active and reasoned deliberation towards the proposed act. To establish whether the “consent” was vitiated by a “misconception of fact” arising out of a promise to marry, two propositions must be established. The promise of marriage must have been a false promise, given in bad faith and with no intention of being adhered to at the time it was given. The false promise itself must be of immediate relevance, or bear a direct nexus to the woman’s decision to engage in the sexual act.”

12. In light of legal position emerging from catena of decisions of the Hon'ble Supreme Court of India, this Court finds that criminal proceeding initiated against applicant is nothing but abuse of process of law. It is discernible from conduct of Respondent No.2 that she voluntarily engaged in sexual relations with applicant for months together. The allegation that she has been induced to establish sexual relation on promise of marriage cannot be accepted in facts of case. The allegations appear to be an attempt to criminalize consensual sexual relations as relations between applicant and respondent no.2 became sour.

13. In result, looking to law laid down by Supreme Court in case of **State of Haryana and Ors. Vs. Ch. Bhajan Lal and Ors. Reported in AIR 1992 SC 604**, this Court finds that this is a fit case for exercise of jurisdiction under Section 528 of Bharatiya Nyaya Suraksha Sanhita, 2023. Resultantly, following order is passed :-

O R D E R

- a. In result, Criminal Application is **allowed**.
- b. The FIR in Crime No.0109/2025 registered with Kranti Chowk Police Station, Tq. and Dist. Chhatrapati Sambhajnagar for offences punishable

under Sections 64(2)(m)69 of Bhartiya Nyaya Sanhita, 2023 as well as charge-sheet/final report no.61 of 2025 and consequential criminal proceeding in Sessions Case No.282 of 2025 pending before the learned District Judge-11 and Additional Sessions Judge, Aurangabad are hereby quashed and set aside.

c. Criminal Application stands disposed of.

(S. G. CHAPALGAONKAR, J.)

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