



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

ANTICIPATORY BAIL APPLICATION NO. 292 OF 2026

MACHHINDRA HARIBHAU RATHOD

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Applicant : Adv. Kusum Pandey

Addl. PP for Respondents/State : Mr. A. S. Shinde

Advocate for Respondent No.2 : Mr. Nisarga Garje

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CORAM : MEHROZ K. PATHAN, J.

RESERVED ON : 21st APRIL 2026

PRONOUNCED ON : 24th APRIL 2026

ORDER :

1. Heard the learned Counsel for the Applicant, the learned Counsel for Respondent No.2 and the learned APP for the Respondent/State.
2. The Applicant has approached this Court, seeking anticipatory bail in connection with Crime No. 07/2026 registered with Ambhora Police Station, District Beed for the offences punishable under Section 69 of Bharatiya Nyaya Sanhita, 2023.
3. The case of the prosecution is that the informant/victim, aged 24 years and 6 months, lodged an F.I.R. on 09.01.2026 alleging that the applicant/accused is her neighbour. Since 2022, he had been

telling her that he wanted to marry her. He established physical relations with her from April 2022 under the promise of marriage. In 2023, the Applicant was appointed as a police constable in the Commissionerate of Mira-Bhayandar. Whenever he visited his native place, he continued to have physical relations with the informant under the same promise. When the informant's relatives came to know about their relationship, they performed an engagement ceremony of the informant and the Applicant on 01.05.2025. Many villagers, including the applicant's family members, were present at the said ceremony. Thereafter, the informant's mother frequently asked the applicant and his family members about the marriage, but they avoided giving a clear response. Finally, the applicant refused to marry the informant. Hence, the F.I.R. was lodged.

4. The learned Counsel for the Applicant submits that the allegations regarding the engagement of the victim girl on 01.05.2025 are false. The Applicant did not remain present at the alleged engagement ceremony, only his uncle was present, and the ceremony was unilaterally conducted without the consent of the Applicant. At that time, the Applicant was serving as a police constable. He is deliberately roped into the present crime. The photographs produced by the informant's family pertain to a marriage discussion held in the common courtyard on 01.11.2025, and not to any engagement ceremony. Neither the Applicant nor his family members were present at the alleged engagement ceremony. There was also news about the complainant's mother having an illicit

relationship with certain villagers, and due to such news, the earlier engagement of the complainant with one Laxman Rathod came to be cancelled. Consequently, the informant and her family members became annoyed when the Applicant refused the proposal of marriage, and have deliberately filed the present FIR only to implicate the Applicant in this crime. The Applicant and the informant are close relatives, and discussions of marriage were initiated by the informant's side; however, the same did not fructify into marriage. Hence, a false FIR has been lodged to pressurize the Applicant into marriage. The Applicant is presently serving with the MBVV Police Commissionerate and is posted at Palghar Police Station. He is likely to lose his job if arrested. The Applicant has deep roots in society and is not a flight risk. The Applicant is not having any criminal antecedents and is ready to abide by any conditions that may be imposed by this Court. Hence the Applicant may be released on anticipatory bail.

. The learned Counsel for the Applicant relies upon the judgment of the Hon'ble Supreme Court in **Praveen Manik Kadam vs. State of Maharashtra and Anr.**, Special Leave Petition (Criminal) No. 18345 of 2025, in support of the submissions.

5. As against this, the learned APP Mr. Shinde and the learned Counsel for Respondent No.2, Mr. Garje, strongly oppose the present application on the ground that there are direct allegations of committing sexual intercourse on the false pretext of marriage. The offence is punishable under Section 69 of the IPC with imprisonment

up to 10 years. The Applicant has taken undue advantage of his close relationship with the complainant's family since 2022. He promised the complainant that he would marry her and committed sexual intercourse with her since 2023. After the Applicant was selected in the police department, whenever he visited the village and found the complainant alone at her house, he used to perform sexual intercourse with her under the false promise of marriage. In March 2025 also, the complainant was subjected to sexual intercourse on the same pretext. Considering the relationship between the Applicant and the complainant, an engagement was fixed on 01.05.2025. The family members of both the complainant and the Applicant were present at the said engagement ceremony. Thereafter, however, the Applicant refused to perform the marriage. Thus, the offence under Section 69 of the BNS is clearly made out against the Applicant. This is not a fit case for granting anticipatory bail, as the investigation is at primary stage and crucial evidence against the Applicant is yet to be collected. There are photographs and videos of the victim girl in the mobile phone of the complainant, which are required to be seized. The medical examination of the Applicant is also necessary. Hence the custodial interrogation of the Applicant is necessary and the Applicant may not be released on bail.

6. I have gone through the investigation papers made available by the learned APP. A perusal of the record shows that there are allegations in the FIR itself that right from the beginning, in the year 2022, the relationship between the Applicant and the Complainant

was consensual in nature. Even before the alleged engagement ceremony on 01.05.2025, it is stated in the FIR that the Applicant and the Complainant were indulging in sexual intercourse from April 2022 till March 2025. The engagement ceremony photographs relied upon by the Counsel for the Applicant show only one of the Applicant's uncle is present, the Applicant himself is not seen in the said photographs. The Applicant has stated that his family members were forcibly made to perform the ceremony without his presence. The offence alleged is sexual intercourse on the false promise of marriage. However, the allegations in the FIR itself indicate that the Applicant and the Complainant were in a consensual relationship since 2022. A perusal of the investigation papers shows that the statement of the Complainant recorded under Section 183 contains allegations of medical termination of pregnancy by administering certain tablets, but this allegation does not find place in the FIR. The investigation papers also contain the medical examination report of the victim girl. The medical examination does not show any abnormality or injury that would corroborate the allegation of sexual intercourse. The report does not show any injury on the genitalia of the Complainant, though there are findings of an old hymenal tear. Thus, the medical examination papers do not prima facie corroborate the allegations of intercourse committed from 2022 as alleged in the FIR. These are prima facie observations made for the purpose of deciding the application and the same may not influence the trial Court.

. The allegations of false promise of marriage are also not

corroborated by the photographs of the alleged engagement ceremony. Whether consent was vitiated by misconception of fact arising out of a promise to marry, two propositions must be established: first, that there was a false promise of marriage given in bad faith; and second, that the false promise bore a nexus to the woman's decision to engage in the sexual act. The allegations in the FIR as well as the statement under Section 183 show that even before the alleged engagement ceremony of 01.05.2025, the Complainant, who was a major, engaged in consensual intercourse since 2022, though on the promise of marriage. Whether the Applicant had an intention to cheat from the inception, or did not intend to marry, is a matter to be evaluated by the learned trial Court after leading evidence to that effect.

7. The Hon'ble Supreme Court in the case of **Pramod Suryabhan Pawar Vs. State of Maharashtra, reported in AIR 2019 SC 4010**, was pleased to observe as under :

24. Hence, it is evident that there must be adequate evidence to show that at the relevant time i.e. at the initial stage itself, the accused had no intention whatsoever, of keeping his promise to marry the victim. There may, of course, be circumstances, when a person having the best of intentions is unable to marry the victim owing to various unavoidable circumstances. The "failure to keep a promise made with respect to a future uncertain date, due to reasons that are not very clear from the evidence available, does not always amount to misconception of fact. In order to come within the meaning of the term "misconception of fact", the fact must have an immediate relevance". Section 90 IPC cannot be called into aid in such a situation, to pardon the act of a girl in entirety, and fasten criminal liability on the other, unless the court is assured of the fact that from the very beginning, the accused had never really intended to marry her."

8. Taking into consideration the nature of the allegations against the present Applicant and the evidence collected during the course of investigation, as well as the material available on record, I am of the prima facie view that the custodial interrogation of the Applicant may not be necessary to complete the investigation. The apprehension of the learned APP and the learned Counsel for Respondent No.2 that the Applicant may flee from the ends of justice and may not be available for trial can be addressed by imposing stringent conditions upon the Applicant. Hence, the following order:

ORDER

(i) In the event of arrest of the Applicant - Machhindra Haribhau Rathod in connection with Crime No. 07/2026 registered with Ambhora Police Station, District Beed for the offence punishable under Section 69 of Bharatiya Nyaya Sanhita, 2023, he be released on bail on furnishing PR. bond of Rs.50,000/- (Rupees Fifty Thousands) with two solvent sureties in the like amount, on the following conditions :

(ii) The Applicant is directed to attend Ambhora Police Station, District Beed on 28th, 29th April of 2026 and 5th, 6th, 12th, 13th May, 2026 between 11:00 am. to 01:00 pm. and thereafter as and when called by the Investigating Officer till filing of the charge-sheet against the present Applicant.

(iii) The Applicant shall hand over the mobile phone and the photographs/videos of the Complainant if any, to the Investigating Officer. The Applicant shall undergo the medical examination.

(iv) The Applicant is directed not to tamper with the evidence and shall not threaten the complainant or the witnesses.

(v) The Applicant shall attend the trial on each and every date unless so exempted by the trial Court on emergency conditions.

(vi) The Applicant shall submit his Aadhar and PAN Cards to the Investigating Officer and detailed addresses and phone numbers of himself and two of the near relatives.

(vii) A single violation of the aforesaid conditions, would entitle the prosecution to seek cancellation of bail of the Applicant on that ground.

(viii) With the aforesaid directions, the application is disposed of.

MEHROZ K. PATHAN
JUDGE

NATEEB..