

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.240 OF 2026

Faizal Firoz Shaikh	...Applicant
V/s.	
State of Maharashtra & Ors	...Respondents
WITH	
INTERIM APPLICATION NO.292 OF 2026	
Shifa S. Shaikh	...Applicant
V/s.	
State of Maharashtra & Ors	...Respondents

Mr. Chetan Sudarshan Shinde, Advocate for the applicant.

Mr. Parvej Nadaf a/w. Mr. Abid Sayyad a/w. Miss Samina Nadaf a/w. Nadaf & Co., Advocate for Complainant/Intervenor.
Mrs. Shubhangi N. Deshmukh, APP for respondents-State.

Coram : MEHROZ K. PATHAN, J.

Date : June 11, 2026.

P. C. :

1. The Applicant has filed the present application thereby praying for releasing on Anticipatory Bail in Crime No.77 of 2026 registered with Shahupuri Police Station Kolhapur for the offences punishable under Sections 351 (2) and 69 of Bharatiy Nyay Sanhita, 2023.
2. The case of the prosecution is that the applicant got aquatinted

with the complainant through social media platform Instagram and thereafter started developing relationship with the complainant in the year 2022. The applicant has tried to obtain consent of the victim girl with an intention to commit sexual intercourse by pretending marry with the complainant. It is further alleged that, on 16.11.2023, accused came to meet the victim at her grand-mother's house and took her on a pleasure drive. On 18.11.2023, the applicant took her at Urmodi Dam and demanded physical relations with her. Victim straightway refused for the same. Victim has her birthday on 25th November. So on 19.11.2023, accused arranged her birthday party in the flat of his maternal uncle, as victim was to go to Pune. He brought pastry, momos and cold-drink and intoxicated the victim through this food articles and when she became unconscious, committed forceful penetrative sexual assault on her.

3. After 2-3 hrs., victim regained her consciousness and realized that, the blood was oozing from her private part and there was pain in her stomach and private part. When victim asked the accused about the said act, he tried to explain that, 'as they are going to marry, it would not make any difference'. The victim also disclosed this fact to the mother of the accused, but she also convinced her on the same line. Again on 07.03.2024, accused came to meet the victim in Pune, took her in a lodge and demanded sexual relations, but when she refused, he disclosed that,

'he has snapped her nude photos, when she was unconscious, and would viral the same, if she will refuse for sexual relations' and again committed forceful penetrative sexual assault on her.

4. It is further alleged that, in February 2025, accused demanded Rs. 5 lacs to the victim upon the reason that, he has suffered a loss in a business. He further threatened that, 'if the said demand is not satisfied, he will not perform the marriage and will viral her photos'. He also had victim's Insta ID password, from which he manage to message himself. It is further narrated that, the victim was introduced by family of the accused, as their daughter-in-law, but when victim's family asked them about performance of marriage, they assured that, they will come to fix the same, on the occasion of Ramzan Eid. and when victim called the accused to confirm the number of persons are going to come in their house, he stated that, 'he has suffered a loss, he cannot perform the marriage and if she is in hurry, she should bring the money. Thereafter, parents of the victim also tried to convince the family of the accused, but they straightway refused to perform the marriage. In short, accused committed forceful penetrative sexual assault on the victim, under the pretext of marriage. Thus, the complainant sought appropriate action against the Applicant on the allegation that he induced her to consent to sexual intercourse by making a false promise of marriage and by

employing deceitful means, despite having no intention of fulfilling such promise.

5. Mr. Shinde, learned Counsel for the Applicant, submits that the Applicant has been falsely implicated in the present crime. It is submitted that there is a delay of about two years in lodging the FIR. The complainant did not immediately lodge any report alleging that the Applicant had adopted deceitful means to obtain her consent for sexual intercourse. Learned Counsel submits that there are no specific allegations in the FIR indicating that, at the inception of the relationship, the Applicant had no intention to marry the complainant. It is submitted that Section 69 of the Bharatiya Nyaya Sanhita, 2023 requires the existence of a false promise to marry coupled with dishonest intention from the very inception. A bare perusal of the FIR, according to learned Counsel, does not satisfy the ingredients of the said offence.

6. It is further submitted that the FIR itself suggests that the Applicant intended to marry the complainant and had repeatedly assured her of marriage. However, owing to certain disputes which subsequently arose between them, the marriage could not materialize. Learned Counsel submits that the present FIR is nothing but an attempt to wreak vengeance against the Applicant. The allegations regarding threats and misuse of photographs have been deliberately made with an intention to

falsely implicate the Applicant. It is submitted that the Applicant is a young student aged 22 years and had a consensual love relationship with the complainant, as is evident from the FIR itself. The Applicant has no criminal antecedents, and is having deep roots in society, and is not likely to abscond. He is ready and willing to abide by any conditions that may be imposed by this Court. Hence, it is prayed that the Applicant may be granted anticipatory bail. The learned counsel relies upon judgment of **Pramod Pawar V/s. State of Maharashtra, (2019) 9 SCC 608**, and submit that the allegations are about consensual sexual intercourse between two major adults. Thus the offence under Section 69 of the BNS is not made out from the allegations in the FIR.

7. Per contra, learned APP as well as learned Counsel appearing for the complainant strongly oppose the application. It is submitted that the Applicant committed sexual intercourse with the complainant by employing deceitful means and by making a false promise of marriage without any intention of fulfilling the same. The offence is punishable with imprisonment which may extend to ten years. It is further submitted that the allegations of sexual intercourse are corroborated by the material collected during the course of investigation. The Applicant is stated to be in possession of incriminating photographs, videos and other digital material stored in his mobile phone. Custodial interrogation of the

Applicant is necessary for conducting his medical examination and for recovery of the incriminating material and electronic data. It is submitted that the offence is serious in nature, involving sexual exploitation of a young woman aged 21 years, and constitutes an offence against society. Therefore, this is not a fit case for grant of anticipatory bail.

8. Learned Counsel for the intervenor, as well as the learned APP place reliance upon the judgments of the Hon'ble Supreme Court in *Anurag Soni v. State of Chhattisgarh, AIR 2019 SC 1857* and *Yedla Srinivasa Rao v. State of Andhra Pradesh, AIR 2006 SC 40*. It is submitted that where consent for sexual intercourse is obtained on a false promise of marriage and where the intention of the accused was dishonest from the inception, such consent stands vitiated in law and cannot be treated as valid consent.

9. I have carefully gone through the investigation papers made available by the learned APP as well as FIR No. 0077 of 2026. The FIR contains specific allegations that the Applicant persuaded the complainant to consent to sexual intercourse on the false pretext of marriage. The intention of the Applicant not to marry the complainant is sought to be inferred from the allegations contained in the FIR itself. There are allegations that on 19th November 2023, the Applicant celebrated the birthday of the complainant by taking her to an apartment,

purchasing pastry, momos and cold drinks, and celebrating the occasion with her. It is further alleged that the Applicant administered an stupefying substance to the complainant, rendering her unconscious, following which he committed sexual intercourse with her.

10. The medical report collected during the course of investigation lends support to the allegations made in the FIR. The WhatsApp chats and transcripts annexed to the intervention application filed by the complainant indicate continuous communication between the parties. The said material prima facie suggests that the Applicant repeatedly persuaded the complainant to engage in sexual relations and thereafter refused to marry her. The prosecution has also collected evidence in the form of WhatsApp messages and UPI transactions made by the complainant in favour of the Applicant.

11. The judgment of the Hon'ble Supreme Court in ***Pramod Suryabhan Pawar v. State of Maharashtra*** (*supra*) is distinguishable on facts and does not assist the Applicant in the facts and circumstances of the present case, particularly having regard to the allegations attracting Section 69 of the Bharatiya Nyaya Sanhita, 2023.

12. Thus, prima facie, there is material to indicate that the Applicant employed deceitful means to persuade the complainant to submit to sexual intercourse. There are specific allegations that the Applicant never

intended to marry the complainant. The allegations contained in the FIR and the material collected during the course of investigation are, at this stage, sufficient to prima facie attract the ingredients of the offence punishable under Section 69 of the Bharatiya Nyaya Sanhita, 2023. The offence alleged is serious in nature and punishable with imprisonment up to ten years. Custodial interrogation of the Applicant appears necessary for effective investigation and for recovery of incriminating material allegedly to be in his possession.

13. In these circumstances, I am not inclined to exercise discretion under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023, in favour of the Applicant. The application is, therefore, rejected.

14. In view of the disposal of the anticipatory bail application, interim application No.292 of 2026 does not survive and the same accordingly is disposed of.

[MEHROZ K. PATHAN, J.]