

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPLICATION NO.271 OF 2026

Mohammad Affaf Abdullah Nadoliya : Applicant
Versus
State of Maharashtra and anr. : Respondents.

Mr. Abdul Razzaque Shaikh for the Applicant.
Ms. Pallavi N Dabholkar, APP for the Respondent/State.
Mr. Harshad Palwe, for Respondent No.2.

CORAM : ASHWIN D. BHOBE, J.

DATED : 18 FEBRUARY 2026

PC:-

1. Heard Mr. Abdul Shaikh, learned Advocate for the Applicant, Ms Pallavi N Dabholkar, learned APP for the Respondent/State and Mr. Harshad Palwe, learned Advocate for Respondent No.2.

2. This Application under Section 528 of the Bhartiya Nagarik Suraksha Sanhita, 2023 is preferred by the Applicant for quashing the FIR bearing No.393 of 2025 dated 18 May 2025, registered with Kurar Village Police Station for the offences punishable under Sections 74, 78 and 351(2) of the Bharatiya Nyaya Sanhita 2023 read with Sections 8 and 12 of the Protection of Children from Sexual Offences Act, 2012.

3. Applicant is present in the Court and is identified by his Advocate Mr. A R Shaikh. He tenders the Photostat copy of the Identity Card of the Applicant, which is taken on record and marked as “X” for identification.

4. Respondent No.2 is present in the Court and is identified by her Advocate Mr. Harshad Palwe. He tenders the Photostat copy of Identity Card of Respondent No.2, which is taken on record and marked as “X-1” for identification.

5. Mr. Harshad Plawe, the learned Advocate for the Respondent No.2, submits that the Respondent No.2 after taking a call on the overall situation, more particularly the age of the Applicant and he being a neighbour of Respondent No.2 and her family, have resolved the matter with the Applicant and his family. He submits that the Respondent No.2 has filed an Affidavit dated 04 February 2026 affirmed before Notary Asif Anwar Shaikh, Pathanwadi, Malad (East), Mumbai, same is taken on record and marked as X-2 for identification. He by referring to the statements made by Respondent No.2 in the said Affidavit (X-2), submit that the Respondent No.2 has given no objection for quashing of the impugned FIR.

6. Mr. Abdul Shaikh, learned Advocate for the Applicant, states that the allegations made against the Applicant are the outcome of the love feelings that were expressed by Applicant to the victim (i.e. the daughter of Respondent No.2). He submits that the Applicant had no malice or ill-intention in expressing his feelings to the victim.

7. Respondent No. 2 states that the said Affidavit (X-2) is filed out of her own free will and without any pressure or coercion from any person. She states that the contents of the Affidavit (X-2) are as per her say. She reiterates her no objection for quashing of the criminal proceedings.

8. The said Affidavit (x-2, affirmed by Respondent No.2, reads as follows :-

1. I state that my minor daughter, the victim herein, is the Complainant / First Informant in C.R. No. 393 of 2025 (hereinafter referred to as the "said FIR"), registered against the Applicant with Kurar Village Police Station on 18th May, 2025, for the offences punishable under Sections 74, 78 and 351(2) of the Bharatiya Nyaya Sanhita, 2023, read with Sections 8 and 12 of the Protection of Children from Sexual Offences Act, 2012.

2. I state that subsequent to the registration of the said FIR, with the intervention of elders and well-wishers, the misunderstanding which led to the lodging of the FIR has been amicably resolved. I further state that the Applicant/Accused has realised his lapse, has tendered an unconditional apology to me and my family, and has assured that no such incident shall ever occur in future.

3. I say that since the victim girl is a minor and is legally incapable of giving her consent by way of an affidavit, I, being her mother and natural/legal guardian, am competent and authorised to give consent on her behalf. I state that I have no objection if this Hon'ble Court is pleased to quash and set aside the said FIR.

4. I say that upon interacting with the Applicant and upon a mature and careful reconsideration of the facts and circumstances, I have realised that there was no malice, ulterior motive, or criminal intent whatsoever on his part. I state that the alleged incident was inadvertent in nature, devoid of any wrongful or sexual intent, and came to be perceived due to a misunderstanding of what was otherwise an unintended and innocuous gesture.

5 I state that I have taken this decision consciously, voluntarily, and without any pressure, coercion, or undue influence, keeping in mind the paramount consideration of the welfare, well-being, and future of my minor daughter. I say that continuation of the criminal proceedings pursuant to the said FIR would result in unnecessary trauma, stigma, and psychological distress to the minor victim and would not advance the ends of justice.

6. I further state that the Applicant/Accused has undertaken to maintain utmost caution in his conduct in future and has assured that he shall not repeat any such act or in any manner disturb the minor victim at any point of time.

7. I say that this affidavit is being filed voluntarily, out of my own free will, solely for the purpose of placing true and correct facts before this Hon'ble Court to secure the ends of justice. I state that the contents herein are true and correct to my knowledge and belief and that nothing material has been concealed therefrom.

8. I respectfully state that this Hon'ble Court, in exercise of its inherent powers under Section 528 of the Bharatiya Suraksha Sanhita, 2023, is empowered to quash criminal proceedings where continuation thereof would amount to an abuse of the process of law and would not serve the ends of justice. I state that in the facts and circumstances of the present case-considering the absence of criminal intent, the misunderstanding having been resolved, the voluntary nature of my consent, and the paramount consideration of the welfare of the minor girl-the continuation of proceedings arising out of the said FIR would serve no useful purpose.

9. I therefore most humbly pray that FIR bearing C.R. No. 393 of 2025 registered with Kurar Village Police Station for the alleged offences punishable under Sections 74, 78 and 351(2) of the Bharatiya Nyaya Sanhita, 2023, read with Sections 8 and 12 of the Protection of Children from Sexual Offences Act, 2012, dated 18th May, 2025, and all proceedings arising therefrom, be quashed and set aside in the interest of justice."

9. Ms. Pallavi Dabholkar, learned APP for the Respondent/State submits that the statements made by Respondent No.2 in the Affidavit (X-2) will result in derailing the entire prosecution, as such no purpose would be served in

continuing with the criminal proceedings. She however submits that the police machinery being used, the Applicant and Respondent No.2 should be saddled with exemplary costs.

10. Considering the aforesaid circumstances, the statements of Respondent No. 2 in the Affidavit (X-2), there being no allegations of any assault or any sexual assault against the Applicant, the age of Applicant, the matter being resolved between the parties, and having regards to the pronouncements of the Hon'ble Supreme Court in the case of *Gian Singh vs State Of Punjab*¹, *Narinder Singh And Ors vs State Of Punjab And Anr*² and *Parbatbhai Aahir @ Parbatbhai vs The State Of Gujarat*³, there is no impediment in allowing this Application.

11. In view of the above, Criminal Application No. 271 of 2026 is allowed subject to payment of costs of Rs.50000/-, to be paid by the Applicant and Respondent No.2 equally. Consequently, the impugned FIR bearing No. 393 of 2025 dated 18 May 2025 registered with Kurar Village Police Station and the consequent criminal proceedings arising out of the said FIR are quashed.

12. The Applicants and the Respondent No.2 shall deposit the costs of Rs.25,000/- each in the below mentioned Account within a period of two weeks from today and file in the

¹ 2012 10 SCC 303

² 2014 6 SCC 466

³ 2017 9 SCC 641

Registry of this Court the compliance affidavit along with the proof of deposit on or before 16 March 2026.

a) The Applicant shall deposit the amount of Rs.25,000/- in :-

Central Police Welfare Fund

Account No: 914010029005759

Bank : Axis Bank Limited

Branch : Worli, Mumbai (M.H.), Mumbai - 400 025

IFSC Code: UTIB0000060

b) The Respondent No.2 shall deposit the amount of Rs.25,000/- in

The High Court Employees Medical Welfare Fund at Mumbai

Account No.: 000120110001337

Bank : Bank of India

Branch : Mumbai Main

IFSC Code : BKID0000001

13. This Criminal Application is allowed in the above-said terms.

(ASHWIN D. BHOBE, J.)