



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

CRIMINAL APPLICATION (APL) NO. 1332 OF 2025

APPLICANT:

Sandip s/o Damju Salame,
A/a 24 yrs, Occ – Student,
R/o Bagdari, Po. Katkumbh,
Tq. Chikaladara,
Dist. Amravati 444 807.

VERSUS

NON-APPLICANTS :

1. The State of Maharashtra
Through Police Station Officer,
Frezzarpura Police Station, Amravati,
Dist. Amravati 444 601.
2. XYZ in Crime No.0098/2025,
Police Station, Frezzarpura.

Shri D. N. Salame, Advocate for applicant.

Shri N. B. Jawade, Additional Public Prosecutor for non-applicant No.1.

Shri S. T. Sakhare, Advocate for non-applicant No.2.

CORAM: URMILA JOSHI-PHALKE, J.

DATED : 13/02/2026.

ORAL JUDGMENT :

1. Heard. **Admit.** Heard finally with the consent of learned counsel appearing for the parties.

2. By this application, applicant is seeking quashing of FIR in connection with Crime No.98/2025 registered under Sections 69 and 64(2)(m) of the BNSS, 2023. A crime is registered on the basis of report lodged by the non-applicant No.2 on an allegation

that when she was studying, she got acquaintance with the present applicant in the year 2024. Thereafter, they started communicating with each other. The friendly relationship was developed between them and on the promise of marriage, present applicant has taken her at various places and subjected her for the forceful sexual assault. On the basis of said report, police have registered a crime against the applicant. After registration of crime, investigation started. During investigation, the victim was referred for the medical examination. The relevant statements are recorded. After completion of investigation, charge sheet was submitted.

3. During pendency of the application, the applicant and non-applicant No.2 appeared before the Court and filed an affidavit stating that they have settled the dispute and in view of that, non-applicant No.2 stated that she does not want to proceed with this application.

4. Admittedly, the allegations levelled against the present applicant that he has subjected her for sexual assault on the promise of marriage is a non-compoundable offence. The guidelines are issued by the Hon'ble Apex Court in the case of Gian Singh Vs. State of Punjab and another, reported in 2012(10) SCC 303, which shows that where the High Court quashes a criminal

proceeding having regard to the fact that the dispute between the offender and the victim has been settled, although the offences are not compoundable, it does so as in its opinion, continuation of criminal proceedings will be an exercise in futility and justice in the case demands that the dispute between the parties is put to an end and peace is restored, securing the ends of justice being the ultimate guiding factor.

5. Besides the settlement, if the facts of the present case are taken into consideration, admittedly, victim is aged about 20 years and she entered into the physical relationship after understanding the consequences of the act, as there was love affair between her and the applicant. The recitals of the FIR specifically show that physical relationship was developed between them out of said relationship. Thus, the physical relationship is out of consent. The statement of the victim discloses that relationship was developed and physical relationship was consensual in nature. This aspect is considered by the Hon'ble Apex Court in the case of **Pramod Suryabhan Pawar Vrs. State of Maharashtra and another,** reported in **(2019) 9 SCC 608**, wherein after referring the catena of decisions in Para No.18, the Hon'ble Apex Court observed as under:-

“18. To summarize the legal position that emerges from the above case, 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.”

6. In the light of the above observations, if the facts and circumstances of the present case are taken into consideration, admittedly, the victim who herself is a grown up lady knowing the consequences of her act, acted under the relationship as it was a love affair between them and she has given a consent for the physical relationship by understanding the consequences of her act. Admittedly, under Section 90 of IPC, a consent given under the misconception of fact is no consent in the eyes of law but the misconception of fact has to be in proximity of time to the occurrence and cannot be spread over for years. Here, the relationship is more than one year. Therefore, it cannot be said that the consent was under the misconception of fact.

7. In the light of the above reasons, application deserves to be allowed. Accordingly, I proceed to pass following order :-

ORDER

i] The application is allowed.

ii] The FIR in connection with Crime No.98/2025 registered under Sections 69 and 64(2)(m) of the BNSS, 2023 and the consequent proceeding arising out of the same bearing Sessions Case No.237/2025 pending before the District Judge-3 and Additional Sessions Judge, Amravati is hereby quashed and set aside to the extent of the present applicant.

8. Application is disposed of.

[JUDGE]