



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

CRIMINAL APPLICATION (APL) NO. 01 OF 2026

APPLICANT :- Akshay Sukhaderaao Gawai,
Aged 28 years, Occu: Service,
R/o Asegaon Purna, Tq. Chandur Bazar,
District Amravati

..VERSUS..

RESPONDENTS :- 1) The State of Maharashtra,
through Police Station Officer, Police
Station Sarmaspura, District Amravati.
2) XYZ
in Crime No. 272/2025 Registered with
P.S. Sarmaspura, District Amravati.

Mr Prateek Sharma, counsel with Ms Sayli V. Kulkarni, with Mr Anushree Pande,
counsel for applicant.

Mr A.M. Ghogare, APP for respondent/State.

Ms Sneha N. Padwekar, counsel (appointed) for respondent No.2.

CORAM : PRAVIN S. PATIL, J.

DATE : 18/02/2026

ORAL JUDGMENT :

1. Heard. **Rule.** Rule made returnable forthwith. By consent of learned counsel Mr. Prateek Sharma counsel with Ms Sayli V. Kulkarni with Mr. Anushree Pande for the applicant, Mr. A.M. Ghogare, learned APP for respondent/State and Ms Sneha N. Padwekar, learned counsel (appointed) for respondent No.2, the application is taken up for final hearing at the stage of admission.

2. At the instance of non-applicant No.2, a complaint came to be lodged against the present applicant alleging that, under the false promise of marriage, he established sexual relations with her and thereafter refused to perform the marriage. Therefore, the complaint came to be registered for the offence under section 69, 351(2) and 352 of the Bhartiya Nyaya Sanhita, 2023, against the present applicant.

3. The applicant approached before this Court to challenge the registration of offence against him on the ground that the relations with non-applicant No.2 were consensual in nature and the same were existing for a period of seven years. According to him, by no stretch of imagination allegation levelled against him attract the offence under Section 69 of the Bhartiya Nyaya Sanhita, 2023 in the present matter.

4. The learned APP and respondent No.2 have strongly objected the present application. According to them, the present applicant, being in service in the Army, he was intermittently coming to his house, and whenever he came home, he established physical relations with the Non-applicant No.2. Therefore, it cannot be said that the relationship was consensual in nature. So also, according to the learned APP, the medical reports support the present case. On these grounds, they prayed for rejection of the present application.

5. In the light of submissions advanced by the parties, I have gone through the police complaint lodged by non-applicant No.2 against the applicant. It is clear from the complaint that she was 25 year old woman, at the time of lodging complaint against the present applicant on 18/11/2025. At the relevant time, she was working as a staff nurse at Sarvodaya Hospital, Paratwada. The applicant is her cousin brother and resides at Asegaon Purna with his family, and is presently working in Indian Army. It is her own case that she had been in love affair with the

present applicant for past seven years.

6. It is stated that their physical relations was first established in the year 2018 and same were continued till 2025. On 13/12/2025, applicant came at Asegaon and called the informant to meet him. Accordingly both went at Vrundavan Lodge, Ajangaon Surji, where he asked for a sexual favour. On that occasion, they had sexual intercourse. Thereafter, when the complainant asked the applicant about the marriage, he refused to marry with her. Hence, on the basis of this last incident, the offence came to be registered against present applicant in the matter.

7. It is well established proposition of law that there is a distinction between the rape and consensual sex. So also, there is a distinction between breach of promise and a false promise of marriage. In cases, where the prosecutrix agrees to have sexual intercourse on account of love and passion for the accused, and not solely on account of a misconception of fact created by accused, such cases are required to be treated difficultly.

8. It will be relevant to rely upon the judgment of the Hon'ble Supreme Court of India in the case of ***Prashant vs. State of NCT of Delhi, (2025) 5 SCC 764***, wherein the Hon'ble Supreme Court of India, has observed in paragraph Nos. 20 and 21, are as under :-

20. In our view, taking the allegations in the FIR and the charge-sheet as they stand, the crucial ingredients of the offence under Section 376 (2)(n) IPC are absent. A review of the FIR and the complainant's statement under Section 164 CrPC discloses no indication that any promise of marriage was extended at the outset of their relationship in 2017. Therefore, even if the prosecution's case is accepted at its face value, it cannot be concluded that the complainant engaged in a sexual relationship with the appellant solely on account of any assurance of marriage from the appellant. The relationship between the parties was cordial and also consensual in nature.

A mere breakup of a relationship between a consenting couple cannot result in initiation of criminal proceedings. What was a consensual relationship between the parties at the initial stages cannot be given a colour of criminality when the said relationship does not fructify into a marital relationship. Further, both parties are now married to someone else and have moved on in their respective lives. Thus, in our view, the continuation of the prosecution in the present case would amount to a gross abuse of the process of law. Therefore, no purpose would be served by continuing the prosecution.

20. The ingredients of criminal intimidation are threat to another person, inter alia, with any injury to his person, reputation with intent to cause alarm to that person or to cause that person to any act which he is not legally bound to do. In the instant case, as already noted, the relationship between the appellant and the complainant was consensual in nature. In fact, they wanted to fructify the relationship into marriage. It is in that context that they indulged in sexual activity. Therefore, there cannot be a case of criminal intimidation involved as against the complainant. We do not find that there was any threat caused to the complainant by the appellant when all along there was cordiality between them and it was only when the appellant got married in the year 2019 that the complainant filed a complaint. In the circumstances, we do not think that the offence under Section 503 read with Section 506 of the IPC has been made out in the instant case.

9. So also, in the case of ***Pramod Pawar Vs State of Maharashtra*** reported in ***(2019) 9 SCC 608***, the Hon'ble Supreme Court of India has discussed what is false promise and breach of promise and accordingly summarized its observations in para-18 of the judgment as under :-

“18. To establish whether the “Consent” was vitiated by a “misconception of fact” arising out of a promise to marry, two propositions be established. The promise of marriage must have been a false promise, given in bad faith & with no intention of being adhered to at the time it was given. And it must be established that person who obtained the consent knew or had reason to believe that the consent was given in consequence of such misconception.”

10. In the light of the law laid down by the Hon'ble Supreme Court of India and the facts of the present case, it is crystal clear that, as per the case of the non-applicant No.2, she was in love affair with the present applicant, and their relation was continued for a period of seven years. Non-applicant No.2 is a 25 years old woman working as a staff nurse. As such, she without any complaint keep continue relations with applicants. She never raised any grievance that applicant under misconception of facts indulge her in sexual relations. Therefore, considering the law laid down by the Hon'ble Supreme Court of India, it is clear that only because of their relations were break down and applicant refused to marry her, the complaint came to be lodged in the matter.

11. As per settled position of law, such long period of relationship between applicant and complainant nullify the allegations raised against applicant. Furthermore break-down of relations cannot result in initiation of criminal proceeding. Hence, in my opinion, the offence under Sections 69, 351 (2) and 352 of the Bhartiya Nyaya Sanhita, 2023 is not attracted in the present matter.

12. Accordingly, continuing of the proceedings against the present applicant, is nothing but abuse of process of Court of law and therefore, the same is liable to be quashed and set aside. Accordingly, I proceed to pass the following order.

ORDER

- a] The criminal application is **allowed**.
- b] The proceedings in Crime No. 272 of 2025 registered with Police Station Sarmaspura, District Amravati (Rural) for the offence punishable under Sections 69, 351(2) and 352 of the Bhartiya Nyaya Sanhita, 2023, is hereby quashed and set aside, against the applicant.

- c] The fees of the appointed counsel be quantified as per rule.
 - d] All pending application(s) stand disposed of.
13. Rule is made absolute in the aforesaid terms. No orders as to costs.

(PRAVIN S. PATIL, J)