



2026:AHC-LKO:22007

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

CRIMINAL APPEAL No. - 481 of 2026

Mohammad Asif

.....Appellant(s)

Versus

State Of U.P. Thru. Secy. Deptt. Of Home Lko.
And Another

.....Respondent(s)

Counsel for Appellant(s)	:	Gudiya Yadav
Counsel for Respondent(s)	:	G.A., Ankur Kumar Panday

Court No. - 12

HON'BLE MANISH MATHUR, J.

1. Heard Ms. Gudiya Yadav, learned counsel for appellant, learned AGA appearing on behalf of respondent no.1-State and Mr. Ankur Kumar Panday, learned counsel for respondent no.2- complainant.

2. This Criminal Appeal has been filed by appellant under Section 14-A(2) of Scheduled Caste & Scheduled Tribes (Prevention of Atrocities) Act, 1989 to set aside order dated 12.12.2025 passed by Learned Special Judge S.C./S.T. Act, Ambedkarnagar in Session Trial No.371 of 2026 and in Case Crime No.849 of 2025, under Sections 69, 127(2), 115(2), 352, 351(3) BNS & Section 3(1)(Da), 3(1)(Dha), 3(2)(v), 3(2)(Va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, Police Station Kotwali Akbarpur, District Lucknow.

3. As per contents of first information report, the appellant was known to the victim for past seven years and she had been residing with him in his house for the past two years with consensual relation-ship due to which the family members of the victim refused to have any relation with her. It is stated that when victim pressurized the appellant for marriage, she was subjected to torture and harassment whereafter she escaped.

4. Learned counsel for appellant submits that the appellant has falsely been implicated in allegations levelled against him and that

a bare perusal of the first information report will reveal the consensual nature of relation-ship between appellant and alleged victim. It is submitted that there is considerable difference in consensual relation-ship on the basis of misconception from the very inception and subsequent breach of promise to marry which would not come within purview of Section 375 read with Section 90 I.P.C. It is further submitted that the appellant does not have any previous criminal history and is under incarceration since 27.11.2025 with the charges having been framed and statement of victim already recorded. It is therefore submitted that the trial is at the very inception. It is also submitted that there is considerable contradiction in statements of victim recorded under Sections 180 and 183 B.N.S.S.

5. Learned A.G.A. as well as learned counsel for complainant have opposed the appeal with the submission that the allegations as levelled in the first information report as well as statement of victim clearly indicate the aspects of applicability of Section imputed against complainant. Learned AGA however on the basis of instruction admits that there is no previous criminal history,

6. Upon consideration of submissions advanced by learned counsel for parties and perusal of material on record and subject to evidence, it appears that the first information report does not disclose any date on which the alleged incident is said to have taken place. It also appears that allegations as made indicate consensual nature of relation-ship between two consenting adults for a long period without any indication of any false promise to marry from the very inception. The appellant is under incarceration since 27.11.2025 without any previous criminal history and trial at the very inception. The aspects also appear to be covered by judgment rendered by Hon'ble the Supreme Court in the case of ***Samadhan Sitatram Manmothe versus State of Maharashtra & Anr.*** reported in ***AIR Online 2025 S.C.1099***; wherein it has been held that for a person to be liable for making false promise of marriage, physical relation-ship must be traceable directly to the

false promise made and not qualified by any other circumstance or consideration. It is also held that in case of prolonged physical relation-ship, the aspect of rape cannot be made applicable retrospectively merely because the relation-ship failed to culminate in marriage.

7. Considering the submissions advanced by learned counsel for appellant, it is apparent that the impugned order has been passed without appreciating the submission made on behalf of appellant and as such the order impugned by the court below is liable to be set aside. Accordingly, the appeal is allowed and the order dated 12.12.2025 is set aside.

8. Let appellant/applicant **Mohammad Asif**, involved in aforesaid case crime be released on bail on his furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned with the following conditions which are being imposed in the interest of justice:-

(i) The appellant/ applicant will not tamper with the evidence during the trial.

(ii) The appellant/ applicant will not pressurize/intimidate the prosecution witness.

(iii) The appellant/applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or any police officer or tamper with the evidence.

(iv) The appellant/ applicant shall file an undertaking to the effect that he shall not seek any adjournment on the dates fixed for evidence when the witnesses are present in court. In case of default of this condition, it shall be open for the trial court to treat it as abuse of

liberty of bail and pass orders in accordance with law.

(v) The appellant/ applicant shall remain present before the trial court on each date fixed, either personally or through his counsel. In case of his absence, without sufficient cause, the trial court may proceed against him under Section 229-A of the Indian Penal Code (now Section 269 of the Bharatiya Nyaya Sanhita, 2023).

(vi) In case, the appellant/applicant misuses the liberty of bail during trial and in order to secure his presence proclamation under Section 82 Cr.P.C. (now Section 84 BNSS) is issued and the appellant/applicant fails to appear before the court on the date fixed in such proclamation, then, the trial court shall initiate proceedings against him, in accordance with law, under Section 174-A of the Indian Penal Code (now Section 209 of the Bharatiya Nyaya Sanhita, 2023).

9. The pending application if any too stands **disposed of**.

(Manish Mathur,J.)

March 30, 2026

Subodh/-