



2025:UHC:11471

SL. No.	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGE'S ORDERS
			BA2 No. 301 of 2025 <u>Hon'ble Ashish Naithani, J.</u> Mr. Atul Bhatt, learned counsel for the Applicant. 2. Mr. Rakesh Negi, learned Brief Holder for the State. 3. The present 2nd Bail Application under Section 483 of BNSS, 2023 has been filed on behalf of the Applicant, Manoj Bisht S/o Late Shaab Singh R/o Village Khetpali, Patti Raund Ramoli, Tehsil Pratapnagar, District Tehri Garhwal. 4. The Applicant is in jail since 09.06.2024 in connection with FIR/Case Crime No.16 of 2024, under Sections 376, 376AB & 506 of IPC and Section 5(m)/6 of POCSO Act registered at Police Station Lambgaon, District Tehri Garhwal. Through this application, the Applicant/accused seeks his release on bail. 5. Learned counsel for the Applicant/accused submits that this is the second bail application filed on behalf of the Applicant/accused. The grounds taken for consideration for grant of bail are firstly that the statements made by the witness do not imply confidence whether the witness is speaking truthfully or not. It is said that the victim is said to have stated that she was in school (implying that at the time of incident she was not present at the place of incident), secondly, it was stated that the victim has stated in her statement recorded under Section 164 of Cr.P.C. that the Applicant/accused forced his male organ into her mouth and ejaculated semen, whereas as per the FSL report, no spermatozoa was found from the oral swap taken from the victim's mouth. In continuation to the said submission, a



		contention was advanced by the learned counsel for the Applicant/accused that as per the statement of the doctor, who examined the victim, it is said that the sperms can be detected even after three to four days in the oral cavity of the person/victim concerned. And another ground taken by the learned counsel for the Applicant/accused is that as per law, the statements of the victim have to be taken within a stipulated period of time, which in this case has not been considered and thus on this new ground the Applicant/accused prays to be enlarged on bail. 6. Learned State counsel, however, opposes the contention so made by the learned counsel for the Applicant/accused and objects to the bail application on the ground at the outset that as per the FSL report and the DNA so taken links the accused in the present crime and that much was considered during the first bail application, where no grounds were found on which the bail was to be allowed. 7. Without going into the merits, this Court firstly would like to comment on the stand taken by the learned counsel for the Applicant/accused regarding the statement of the Medical Officer, the said statement of the doctor medically cannot said to be rule of the thumb whereas it vary case to case and when there is a possibility of the mouth being washed, teeth washed and food consumed, the fact can be related to the FSL report, wherein no spermatozoa was found. The rest details causes hindrance to the merits of the case. Secondly, regarding the truthfulness of the victim, it is to be borne in mind that the victim is merely an eight years old child and that the incident, that may affect her whole life psychologically. Thirdly, the
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			reference to the DNA as pointed out by the learned State counsel also misplaces any chance for the Applicant/accused to be enlarged on bail at this juncture; whereas other points were considered during the hearing of the first bail. 8. Hence, finding no new or tenable ground for allowing the bail application, the present bail application is, accordingly, rejected. (Ashish Naithani, J.) 22.12.2025 Akash AKASH 
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