



2025:AHC:172795

Reserved on 27.08.2025

Delivered on 24.09.2025

HIGH COURT OF JUDICATURE AT ALLAHABAD
CRIMINAL MISC. BAIL APPLICATION No. - 17095 of 2025

Jugendra Singh Yadav

.....Applicant(s)

Versus

State Of U.P. And 3 Others

.....Opposite
Party(s)

Counsel for Applicant(s)	:	Sameer Srivastava
Counsel for Opposite Party(s)	:	G.A., Rajesh Sharma

Court No. - 82

HON'BLE SAMEER JAIN, J.

1. None appeared on behalf of the informant even in revised call.
2. Heard Sri Sameer Srivastava, learned counsel for the applicant, Sri Manish Goyal, learned Additional Advocate General assisted by Sri Arvind Kumar, learned AGA for the State.
3. The instant bail application has been filed seeking release of the applicant on bail in Case Crime No.449 of 2024, under Sections 376-D, 342, 323, 504, 354(Kha), 506, 377 IPC and Sections 5/6 POCSO Act, 2012, Police Station Kotwali Nagar, District Etah, during pendency of the trial.

Arguments advanced on behalf of the applicant:-

4. Learned counsel for the applicant submits that FIR of the present case was lodged against applicant and three others on 3rd October, 2024 under Sections 376-D, 342, 323, 504, 506, 354(Kha) IPC and according to the FIR, on 4th January, 2015 at about 8:00 A.M. in the morning when informant of the case went at the house of the applicant for work then he committed rape upon her and thereafter co-accused Rameshwar Singh Yadav, the brother of the applicant also committed rape in similar fashion and when she tried to make complaint to other co-accused namely Pramod Yadav and Subodh Yadav then they threatened her but entire allegations

levelled against the applicant are totally false.

5. He next submits that incident is said to have taken place on 4th January, 2015 but FIR of the present case was lodged on 3rd October, 2024 i.e. after more than nine and half years and therefore, no reliance can be placed on such belated FIR.

6. He further submits that however victim reiterated the version of the FIR in her both statements recorded under Sections 161 and 164 Cr.P.C. but considering the fact that there is delay of more than nine and half years in lodgement of the FIR of the present case, no reliance can be placed on her version.

7. He further submits that even story narrated by the victim does not appear to be convincing.

8. He further submits that however, apart from the present case, applicant is having criminal history of 102 cases but his entire criminal history has been duly explained in the chart filed in support of the instant bail application.

9. He further submits that in 15 cases applicant has already been acquitted, in 31 cases final reports have been submitted, 10 cases have been withdrawn with the leave of the Court, 3 cases have been expunged and 7 cases have become infructuous due to efflux of time and in another 3 cases, he has been exonerated.

10. He further submits that in 4 cases proceedings pending against the applicant have been stayed by this Court and in 20 cases, he is on bail and in 5 cases investigation is still pending.

11. He further submits, on the basis of such criminal antecedents considering the fact of the case, the bail application of applicant should not be withheld.

12. He further submits that applicant is in jail in the present matter for one year.

Arguments advanced on behalf of the State:-

13. Per contra; learned A.A.G. opposed the prayer for bail and submits that it is a case of gang rape and applicant and his brother i.e. co-accused Rameshwar Singh Yadav committed rape upon the victim, who was innocent lady and she in her both the statements recorded under Sections 161

and 164 Cr.P.C. reiterated the version of the FIR.

14. He further submits that as applicant is having criminal history of more than 100 cases therefore, due to his influence and fear earlier FIR could not be lodged.

15. He further submits that applicant is hardened criminal who is having criminal history of more than 100 cases to his credit and he is history-sheeter. He further submits, from the criminal history of applicant, it reflects, he indulged in anti social activities since 1980. He further submits, at the time of deciding bail application, criminal history of an accused is very relevant and ordinarily a man who is having such huge criminal history of 100 cases should not be released on bail.

16. He further submits, therefore, considering the fact that it is a case of gang rape and applicant is having criminal history of 100 cases, he does not deserve bail.

Analysis:-

17. I have heard both the parties and perused the record of the case.

18. However, it appears to be a case of gang rape and as per allegation, applicant and co-accused Rameshwar Singh Yadav, the brother of the applicant committed rape upon the informant and she also in her both the statements recorded under Sections 161 and 164 Cr.P.C. reiterated the version of the FIR but it reflects, as per the victim rape was committed upon her on 4th January, 2015 but FIR was lodged on 3rd October, 2024 i.e. after more than nine and half years, therefore, there is inordinate delay in lodgement of the FIR of the present case and this casts serious doubt on the case of prosecutrix.

19. Further, however, applicant is having criminal history of more than 100 cases and as per learned A.A.G. due to his influence and fear earlier FIR could not be lodged but considering the fact that there is delay of more than nine and half years in lodging the FIR, it cannot be said that only due to fear of the applicant earlier informant could not lodge the FIR of the present case, especially considering the fact that number of FIRs were being lodged against him even before the year 2024.

20. Further, however, apart from the present case, applicant is having criminal history of 102 cases but his entire criminal history has been

explained in the chart filed in support of the instant bail application and from its perusal, it reflects that in 15 cases applicant has already been acquitted, in 31 cases final reports have been submitted, 10 cases have been withdrawn with leave of the Court, 3 cases have been expunged and 7 cases have become infructuous due to efflux of time and in another 3 cases, he has been exonerated. Further, in 4 cases proceedings pending against the applicant have been stayed by this Court and in 20 cases, he is on bail and in 5 cases investigation is still pending.

21. Further, however, this Court finds merit in the arguments advanced by learned A.A.G. that at the time of hearing of bail application, criminal history of the accused is relevant but law is settled, if otherwise case of bail is made out then ordinarily bail application should not be withheld merely on the basis of criminal antecedents.

22. The Apex Court in case of **Ayub Khan Vs. State of Rajasthan 2024 SCC OnLine SC 3763** in para 10 observed as under:-

"10. The presence of the antecedents of the accused is only one of the several considerations for deciding the prayer for bail made by him. In a given case, if the accused makes out a strong prima facie case, depending upon the fact situation and period of incarceration, the presence of antecedents may not be a ground to deny bail. There may be a case where a Court can grant bail only on the grounds of long incarceration. The presence of antecedents may not be relevant in such a case. In a given case, the Court may grant default bail. Again, the antecedents of the accused are irrelevant in such a case. Thus, depending upon the peculiar facts, the Court can grant bail notwithstanding the existence of the antecedents."

23. Further, applicant is in jail in the present matter for last one year.

24. Therefore, considering the observation made by Supreme Court in case of **Ayub Khan (supra)** and period of incarceration of applicant in the present case, in view of this Court, it is not proper to withheld the bail application merely on the ground that applicant is having criminal history of 100 cases.

25. Therefore, considering the facts and circumstance of the case discussed above, in my view, applicant is entitled to be released on bail.

26. Accordingly, without expressing any opinion on the merits of the case, the instant bail application is **allowed**.

27. Let the applicant- **Jugendra Singh Yadav**, be released on bail in the aforesaid case on furnishing a personal bond and two sureties each in the

like amount to the satisfaction of the court concerned with the following conditions:-

(i) The applicant shall appear before the trial court on the dates fixed, unless his personal presence is exempted.

(ii) The applicant shall not directly or indirectly, make 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.

(iii) The applicant shall not indulge in any criminal and anti-social activity.

28. In case of breach of any of the above condition, the prosecution will be at liberty to move an application before this Court for cancellation of the bail of the applicant.

29. It is clarified that the observations made herein are limited to the facts brought in by the parties pertaining to the disposal of bail application and the said observations shall have no bearing on the merits of the case during trial.

September 24, 2025
Zafar

(Sameer Jain,J.)