



2025:AHC:179581

HIGH COURT OF JUDICATURE AT ALLAHABAD
CRIMINAL MISC. BAIL APPLICATION No. - 34652 of 2025

Rakesh Mishra Alias Budan Mishra

.....Applicant(s)

Versus

State Of U.P. And 3 Others

.....Opposite
Party(s)

Counsel for Applicant(s) : Saurabh Tripathi, Shashikant Mishra
Counsel for Opposite Party(s) : Ajay Kumar Sharma, G.A., Satya Priya Dwivedi

Court No. - 65

HON'BLE DR. GAUTAM CHOWDHARY, J.

1. Heard learned counsel for the applicant, learned A.G.A for the State as well as Shri Ajay Kumar Sharma, learned counsel for the informant and perused the record.

2. Learned counsel for the applicant submits that applicant is innocent and has been falsely implicated in the present case. Learned counsel further submits that initially for the alleged incident an F.I.R. was lodged by the informant against one Rakesh Kumar and in that F.I.R. the applicant was not named. After lodging of the F.I.R., police came into action and the victim was recovered, who in her statements recorded under Section 161 & 164 Cr.P.C., in which she has also not named the applicant and she has not made any allegation against him. The victim in her additional statement (Majeed Bayan), has also not taken the name of applicant and there is no allegation against him. After due investigation the police submitted final report exonerating the named accused-Rakesh Kumar, which final report was accepted by the court concerned vide order dated 15.03.2023. Learned counsel further submits that on the submission of final report the court concerned issued noticees to the informant, upon which informant appeared and moved an application stating therein that he has filed a complaint case in which accused have been summoned, therefore, he does not have any need to file protest petition. Learned counsel further submits that for the same cause of action and for the same incident, choosing to move complaint instead of filing protest petition against the final report, is against the law, which shows malafide intention of the prosecution. Thus, the present criminal proceeding initiated against the applicant by filing complaint shows applicant has been falsely implicated in the case. Several other submissions in order to demonstrate the falsity of the allegations made against the applicant have also been placed before the Court. The circumstances which, according to the counsel, led to the false implication of the accused have also been mentioned. It has also been assured on behalf of the applicant that he is

ready to cooperate with the process of law and shall faithfully make himself available before the court whenever required and is also ready to accept all the conditions which the Court may deem fit to impose upon him. He next submits that applicant is languishing in jail since 29.03.2025, having no criminal history.

3. Per contra, learned A.G.A. as well as learned counsel for the informant have opposed the prayer for bail of the applicant by contending that the innocence of the applicant cannot be adjudged at pre trial stage, therefore, he does not deserve any indulgence, but they could not dispute the above facts asserted on behalf of applicant.

4. After perusing the record in the light of the submissions made at the bar and after taking an overall view of all the facts and circumstances of this case, the nature of evidence and also the absence of any convincing material to indicate the possibility of tampering with the evidence, without expressing any opinion on merits of the case, this Court is of the view, that the applicant may be enlarged on bail.

5. Let applicant-**Rakesh Mishra Alias Budan Mishra**, involved in Complaint Case No. 32A of 2022, under Section 376D I.P.C. and Section 6 of Protection of Children From Sexual Offences Act, Police Station Mahevaghat, District Kaushambi, be enlarged on bail on furnishing a personal bond and two heavy local sureties each of the like amount to the satisfaction of the court concerned subject to the following conditions:-

(i) The applicant will not tamper with prosecution evidence and will not harm or harass the victim/complainant in any manner whatsoever.

(ii) The applicant will abide the orders of court, will attend the court on every date and will not delay the disposal of trial in any manner whatsoever.

(iii) The applicant shall file an undertaking to the effect that he shall not seek any adjournment on the date 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.

(iv) The applicant will not misuse the liberty of bail in any manner whatsoever. In case, the applicant misuses the liberty of bail during trial and in order to secure his presence proclamation under section 82 Cr.P.C., may be issued and if 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 I.P.C.

(v) The applicant shall remain present, in person, before the trial court on dates fixed for (1) opening of the case, (2) framing of charge and (3)

recording of statement under Section 313 Cr.P.C. If in the opinion of the trial court absence of the applicant is deliberate or without sufficient cause, then it shall be open for the trial court to treat such default as abuse of liberty of bail and proceed against him in accordance with law and the trial court may proceed against him under Section 229-A IPC.

6. The identity, status and residential proof of sureties will be verified by court concerned and in case of breach of any of the conditions mentioned above, court concerned will be at liberty to cancel the bail in accordance with law.

7. The bail application is **allowed**.

(Dr. Gautam Chowdhary,J.)

October 8, 2025

Mustaqeem.