



2025:JHC-1 K0:29709

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

CRIMINAL APPEAL No. - 2320 of 2025

Munna Thekedar @ Munna Khan

.....Appellant(s)

Versus

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

.....Respondent(s)

Counsel for Appellant(s) : Smriti, Ajeet Kumar Singh, Alok
Kumar Mishra
Counsel for Respondent(s) : G.A., Deepak Kumar

Court No. - 28

HON'BLE PRAMOD KUMAR SRIVASTAVA, J.

Supplementary affidavit filed today in Court by learned counsel for the appellant is taken on record.

Heard learned counsel for the appellant, learned counsel for the complainant and learned AGA for the State as well as perused the record.

The present criminal appeal under Section 14-A (2) Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act has been preferred against the impugned order dated 15.07.2025 passed by learned Special Judge, SC/ST (P.A.), Act, Hardoi in Bail Application No. 1863 of 2025, arising out of Case Crime No. 432 of 2025, under Sections 64(2)(f), 115(2), 351(3), 135 of BNS and Sections 3(2)(v), 3(2)(va) of SC/ST Act, Police Station Kotwali City, District Hardoi, whereby the bail application of the appellant has been rejected.

Learned counsel for the appellant submits that the appellant has falsely been implicated in the present case. He further submits that there is inordinate delay of 7 days in lodging the FIR. He next submits that no name of eye witness is mentioned in the FIR. He also submits that accused-appellant never took away the prosecutrix in his motorcycle and no one has seen him with the

prosecutrix in the motorcycle. He also submits that Pooja Hotel is situated in a crowded area and there is no entry for booking of room, in the hotel, in the name of appellant or the prosecutrix. He also submits that the prosecutrix is a major woman, aged about 32 years. He also submits that the prosecutrix has given contradictory statements recorded under Section 180 and 183 of BNSS. He next submits that the appellant has a case criminal history which has been explained in the supplementary affidavit and he is languishing in jail since 25.06.2025. He added that in case the appellant is enlarged on bail, he shall not misuse the liberty of bail and he will fully cooperate with the trial. He has further submitted that there is no possibility of the appellant to intimidate or pressurize the witnesses or any other persons acquainted with the facts of the present case.

For the aforesaid reasons, learned counsel for the appellant submits that the instant criminal appeal deserves to be allowed and the impugned order may be set aside and consequently, the appellant deserves to be enlarged on bail.

Per contra, learned counsel for the complainant and learned AGA for the State have opposed the prayer for bail by submitting that there is specific allegation against the accused-appellant in respect of commission of rape. They further submit that prosecutrix in her statement given before the Magistrate has clearly stated that accused-appellant has committed rape on her. They further state that accused-appellant is a muscleman who has also beaten the husband of the prosecutrix and if he is enlarged on bail, he will influence the witness and linger the trial, therefore, the appellant is not entitled to be enlarged on bail and the instant criminal appeal deserves to be dismissed. However, he has been unable to dispute the other factual submissions advanced by the learned counsel for the appellant.

Considering the submissions of learned counsel for the parties and after perusal of material available on record, including the allegations made in the FIR, it transpires that the alleged incident

was occurred on 12.06.2025 whereas the FIR was lodged after seven days on 19.06.2025; no explanation has been offered in the FIR; as per the FIR, the prosecutrix is a major woman and there is no statement that she has raised any alarm, although she has stated in her statement before the Magistrate that appellant has committed rape on her but it appears that, that was a consensual relationship; in the medico legal examination, no hymen or bleeding was found on the person of the prosecutrix and there was pregnancy; the appellant has a case criminal history which has been explained and he has undertaken that in case he is enlarged on bail, he will not misuse the liberty of bail and will cooperate with the trial. Without expressing any opinion on merit, this Court is of the view that the learned court below has failed to appreciate the material available on record, thus, the order passed by the court below is liable to be set aside.

Accordingly, the appeal is **allowed**. Consequently, the impugned order dated 15.07.2025 passed by learned Special Judge, SC/ST (P.A.), Act, Hardoi in Bail Application No. 1863 of 2025, arising out of Case Crime No. 432 of 2025, under Sections 64(2)(f), 115(2), 351(3), 135 of BNS and Sections 3(2)(v), 3(2)(va) of SC/ST Act, Police Station Kotwali City, District Hardoi, is hereby set aside.

Let the appellant-**Munna Thekedar @ Munna Khan** be released on bail in the aforesaid case crime number on his furnishing a personal bond and two reliable sureties each in the like amount to the satisfaction of the court concerned, subject to following additional conditions-

- (i) The appellant will cooperate with the prosecution during trial.
- (ii) The appellant will not tamper with the evidence during trial
- (iii) The appellant will not pressurize/intimidate the prosecution witness(s).
- (iv) The appellant will not commit any offence.

(v) The appellant will 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 to any police officer or tamper with the evidence.

(vi) The appellant will remain present before the trial court on each date fixed, either personally or through counsel.

(vii) The appellant will not seek any adjournment on the dates fixed for evidence when the witnesses are present in court.

(viii) The appellant will remain present, in person, before the trial court on the dates fixed for recording of statement under Section 313 Cr.PC.

In case of default of above conditions, it shall be open for the trial court to treat it as abuse of liberty of bail and pass orders in accordance with law

As this order relates to enlargement of the appellant on bail, it is clarified that observation(s) made in this order shall have no bearing on the merits of the case and the trial court shall not be influenced by any observation(s) made in this order.

December 16, 2025

kkv/

(Pramod Kumar Srivastava,J.)