



2025:JHC-1 K0:29464

**HIGH COURT OF JUDICATURE AT ALLAHABAD  
LUCKNOW**

**CRIMINAL APPEAL No. - 3768 of 2025**

Ajay Kumar Verma

.....Appellant(s)

Versus

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

.....Respondent(s)

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|---------------------------|---|------------|
| Counsel for Appellant(s)  | : | Amit Kumar |
| Counsel for Respondent(s) | : | G.A.       |

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**Court No. - 28**

**HON'BLE PRAMOD KUMAR SRIVASTAVA, J.**

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

As per the office report dated 15.12.2025 notice has already been served personally upon the opposite party No. 2, but till date neither any counsel has appeared on behalf of opposite party No. 2 nor counter affidavit has been filed on her behalf, it appears that she is not interested to file any counter affidavit.

In the above circumstances, as the matter pertains to bail this Court has no option but to proceed for final arguments to decide the present appeal.

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 07.11.2025 passed by Special Judge SC/ST Act, Lakhimpur Kheri in Bail Application No. 482 of 2025 : Ajay Kumar Verma Vs. State of U.P. and another), arising out of Case Crime No. 223 of 2025, under Section 6491) BNS and Section 3 (2) V SC/ST Act, Police Station Sharda Nagar, District Lakhimpur Kheri, whereby the bail application of the appellant has been rejected.

Learned counsel for the appellant submits that the appellant has given his e-rickshaw to the husband of the opposite party No.2/victim on rent of Rs. 300/- daily basis, when he asked for his money, the husband of the opposite party No.2 abused him and lodged a false case against him.

Learned counsel for the appellant submits that the appellant has falsely been implicated in the present case. The prosecutrix/opposite party No.2 is a married woman aged about 25 years.

Learned counsel for the appellant further submits that the prosecutrix in her

statement recorded under Section 180 BNSS has not made allegation of rape against the appellant, but in her statement recorded under Section 183 BNSS she changed her version and made allegation of rape against the appellant. He further submits that the prosecutrix has refused for her internal medical examination, thus in absence of any medical examination, it cannot be said that the rape has been committed or any physical relation was made by the appellant with the prosecutrix.

Learned counsel for the appellant submits that next submits that the appellant is languishing in jail since 01.11.2025 having no criminal history in his favour. He added that in case the appellant is enlarged on bail, he shall not misuse the liberty of bail and he shall 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 deserve to be enlarged on bail.

Per contra, learned AGA has opposed the prayer by submitting that there is active participation of accused/appellant in the crime. Therefore, the accused/ 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 accused/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 prosecutrix/opposite party No.2 is a married woman aged about 25 years; the prosecutrix in her statement recorded under Section 180 BNSS has not made allegation of rape against the appellant, but in her statement recorded under Section 183 BNSS she changed her version and made allegation of rape against the appellant; there is no medical evidence in respect of commission of causing sexual and physical injury; the appellant is languishing in jail since 01.11.2025 having no criminal history in his favour and he has undertaken that in case he is enlarged on bail, he shall 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 07.11.2025 passed by Special Judge SC/ST Act, Lakhimpur Kheri in Bail

Application No. 482 of 2025 : Ajay Kumar Verma Vs. State of U.P. and another), arising out of Case Crime No. 223 of 2025, under Section 6491) BNS and Section 3 (2) V SC/ST Act, Police Station Sharda Nagar, District Lakhimpur Kheri, is hereby set aside.

Let the **appellant-Ajay Kumar Verma** be released on bail in the aforesaid case crime number on furnishing a personal bond and two sureties each of the like amount to the satisfaction of the court concerned subject to following additional conditions-

- (1) The appellant shall cooperate with the prosecution during trial.
- (ii) The appellant shall not tamper with the evidence during trial
- (iii) The appellant shall not pressurize/intimidate the prosecution witness(s).
- (iv) The appellant shall not commit an offence.
- (v) The appellant 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 them from disclosing such facts to the court or to any police officer or tamper with the evidence.
- (vi) The appellant shall remain present before the trial court on each date fixed, either personally or through counsel.
- (vii) The appellant shall not seek any adjournment on the dates fixed for evidence when the witnesses are present in court.
- (viii) The appellant shall 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**

Arvind

**(Pramod Kumar Srivastava,J.)**