



2025:004 - 1 K03:29:547

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

CRIMINAL MISC. BAIL APPLICATION No. - 12525 of 2025

Aftab

.....Applicant(s)

Versus

State Of U.P. Thru. Prin. Secy. Home Lko. And 3
Others

.....Opposite
Party(s)

Counsel for Applicant(s)	:	Meva Lal Yadav, Harshita Gupta
Counsel for Opposite Party(s)	:	G.A.

Court No. - 16

HON'BLE BRIJ RAJ SINGH, J.

1. Heard learned counsel for the applicant, learned A.G.A. and perused the record.
2. The present application has been filed seeking bail in Case Crime No.317 of 2025, under Sections 87, 137(2) and 64(1) of Bharatiya Nyaya Sanhita, 2023 and Section 3/4 POCSO Act, Police Station Baskhari , District Ambedkar Nagar.
3. Learned counsel for the accused-applicant has invited the attention of the Court towards the statement recorded under Section 183 of Bharatiya Nagarik Suraksha Sanhita, 2023, where the prosecutrix has stated that she had gone with the applicant out of her free will and went to Bihar by train and thereafter Nikah was performed in Madarsa. The prosecutrix lived in the house of the applicant and no allegation of harassment was made. She further deposed before the court that she wanted to go along with the applicant and also established physical relations with him out of her free will. It is submitted that the prosecutrix has stated that she was 18 years of age at the relevant time though the complainant had stated that she was 16 years of age. She further submits that the prosecutrix has refused for medical examination and the benefit of two years upper age limit will go in favour of the accused and it should be construed that the prosecutrix was major at the time of incident. There is no criminal history of the applicant and he is in jail since 12.11.2025.

4. Learned AGA by opposing the prayer for bail has submitted that as per the High School Mark-sheet, the prosecutrix is 16 years of age and she is minor at the time of incident, therefore, the bail application is liable to be rejected.

5. Considering the above facts and circumstances of the case; the argument that prosecutrix in her statement under Section 183 of Bharatiya Nagarik Suraksha Sanhita, 2023 has not supported the prosecution case, rather she has deposed before the court that she was married with the applicant out of her own will; the argument that benefit of two years upper age limit will go in favour of the applicant; the argument that prosecutrix has refused for medical examination, the applicant is entitled to be released on bail.

6. Let applicant **Aftab** be released on bail in the above case crime number on his furnishing a personal bond and two sureties each in the like amount to the satisfaction of Court concerned with the following conditions :-

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

(ii) The applicant shall remain present before the trial court on each date fixed, either personally or through his counsel. In case of his absence, without sufficient cause, the trial court may proceed against him under Section 229-A of the Indian Penal Code.

(iii) 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. is issued and the 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 of the Indian Penal Code.

(iv) The applicant shall remain present, in person, before the trial court on the dates fixed for (i) opening of the case, (ii) framing of charge and (iii)

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.

(Brij Raj Singh,J.)

December 16, 2025

Rao/-