



2026:UHC:3709

SL. No.	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGE'S ORDERS
			<u>BA1 No. 222 of 2026</u> Pankaj Kumar Vs. State of Uttarakhand <u>Hon'ble Ashish Naithani, J.</u> Mr. Rajkumar Singh, learned counsel for the Applicant. 2. Mr. Pradeep Lohani, learned AGA for the State. 3. Present first bail application has been moved on behalf of the applicant, Pankaj Kumar @ Rishi, who is in judicial custody in connection with Case Crime No. 07 of 2024, S.S.T. No. 560 of 2024, registered at Police Station Kelakhera, District Udham Singh Nagar, for the offences punishable under Sections 363, 366 and 376 IPC and Section 5/6 of the POCSO Act. 4. The facts, in brief, are that the FIR was lodged by the mother of the victim, alleging that her minor daughter had gone missing, whereupon the matter was initially registered under Section 363 IPC. During the investigation, the victim was recovered along with the present applicant on 26.05.2024. Her statements under Sections 161 and 164 Cr.P.C. were recorded and, thereafter, Sections 366 and 376 IPC and Section 5/6 of the POCSO Act came to be added. The applicant was arrested on 27.05.2024 and has been in custody since then. Post completion



		of the investigation, a charge sheet has been filed. 5. It is also borne out from the record that the bail application moved by the applicant before the learned FTC/Additional Sessions Judge/Special Judge, POCSO, Udham Singh Nagar, was rejected vide order dated 10.01.2025, inter alia, on the ground that the victim was shown to be minor as per the documents relating to her age and that the allegations levelled against the applicant were serious in nature. 6. Heard learned counsel for the parties and perused the record. 7. Learned counsel for the applicant submits that the applicant has been falsely implicated in the present case. It is submitted that the victim, in her statement recorded before the learned trial court, has not supported the prosecution case in its material particulars and has stated that she had gone with the applicant of her own volition. It is further submitted that the victim has claimed herself to be a major and has also stated about her relationship with the present applicant. 8. Learned Counsel further submits that even the mother of the victim has not supported the version of the State on material particulars and, in her statement, has stated that the victim had voluntarily accompanied the Applicant and had informed her that she had married him in a temple
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		9. It is further submitted that the parties are stated to be in a subsisting relationship, are living together, and an infant child has also been born out of the said relationship. In view of the existing relationship between the parties, the welfare of the infant child, the period of custody undergone by the applicant since 27.05.2024, and the fact that the charge-sheet has already been submitted, it is prayed that the applicant be enlarged on bail. 10. Per contra, learned State counsel has opposed the bail application and submits that, as per the material collected during the investigation, including the school record, the victim was a minor on the date of the alleged incident. It is further submitted that the offences alleged against the applicant are serious in nature and the learned court below has rightly rejected the bail application. 11. This Court is conscious that the question regarding the age of the victim, the evidentiary value of her statement, and the effect of the evidence led before the learned trial court are matters to be examined by the trial court independently and on their own merits. At this stage, this Court is not required to return any conclusive finding on the said aspects. 12. However, for the limited purpose of considering the present bail application, this Court takes note of the statement of the victim recorded before the learned trial court, the statement of her mother, the period of custody undergone by the applicant, the fact
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		that the charge-sheet has already been submitted, and, more particularly, the admitted circumstance that an infant child has been born out of the relationship between the victim and the applicant. 13. This Court cannot lose sight of the fact that the welfare and upbringing of the infant child is also a relevant consideration at this stage. Prima facie, it has come on record that the victim had accompanied the applicant of her own volition, and the child born out of the relationship is presently at a stage where the care, protection, emotional support, and presence of both parents would assume significance. In the event the applicant continues to remain incarcerated during the pendency of trial, the infant child may suffer an irreparable deprivation of paternal care and emotional support at a formative stage of life 14. Sometimes, the court is required to apply a humane attitude while dealing with different facts and circumstances. The Supreme Court in <i>Dataram Singh vs. State of UP</i> 2018 (3) SCC 22 opined that <i>“There is no doubt that the grant or denial of bail is entirely the discretion of the Judge considering a case, but even so, the exercise of judicial discretion has been circumscribed by a large number of decisions rendered by the Supreme Court and by every High Court in the country. Yet, occasionally, there is a necessity to introspect whether denying bail to an accused</i>
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			<i>person is the right thing to do on the facts and in the circumstances of a case.”</i> 15. In the peculiar facts and circumstances of the present case, particularly the subsisting relationship between the parties, the statements referred to hereinabove, the custody already undergone by the applicant, and, above all, the welfare and best interests of the infant child born out of the relationship between the parties, this Court is of the considered view that the applicant has made out a fit case for grant of bail. 16 Accordingly, the present bail application is allowed. (Ashish Naithani, J.) 12.05.2026 Anand/
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