

HIGH COURT OF UTTARAKHAND AT NAINITAL

Third Bail Application No.61 of 2024

Pawan Koli Applicant

Versus

State of Uttarakhand Respondent

Present:-

Ms. Meenu Kashyap and Mr. Mohit Kumar Kashyap, Advocates for the applicant.
Mr. B.N. Molakhi, Deputy Advocate General for the State.

Hon'ble Ravindra Maithani, J. (Oral)

The applicant is in judicial custody in FIR No.388 of 2021, dated 25.06.2021, under Sections 363, 366, 376 IPC and sections 5/6 of the Protection of Children from Sexual Offences Act, 2012, Police Station Rudrapur, District Udham Singh Nagar. He has sought his release on bail. This is third bail application of the applicant. His first and second bail applications have already been rejected on 02.03.2023 and 19.09.2023 respectively.

2. Heard learned counsel for the parties and perused the record.

3. According to the FIR, the victim, a girl studying in Class 12th had left her house on 16.04.2021, but she did not return. Subsequently, she telephoned that she is with her friend, but thereafter, she could not be traced.

4. Learned counsel for the applicant would submit that, in fact, the applicant and the victim, both were in romantic relationship, which has been admitted by the victim in her statement during investigation and during trial also.

5. Learned State Counsel admits these facts. But, he submits that according to the prosecution, the victim was child. She has stated that the applicant established physical relations with her. Consent of a child has no consequence.

6. In the cases of Mahesh Kumar Vs. State (NCT of Delhi), 2023 SCC OnLine Del 2634, Faizan Wahid Baig Vs. The State of Maharashtra, MANU/MHOR/62774/2022, Vijaylakshmi and another Vs. State and another, 2021 SCC OnLine Mad 317, Shri John Franklin Shylla Vs. State of Meghalaya and Anr., 2023 SCC OnLine Megh 303 and Ashik Ramjali Ansari Vs. State of Maharashtra and another, 2023 SCC OnLine Bom 1390, the Courts have either granted bail or quashed the proceedings or acquitted the accused in the cases like instant one.

7. Having considered, this Court is of the view that it is a case fit for bail and the applicant deserves to be enlarged on bail.

8. The bail application is allowed.

9. Let the applicant be released on bail, on his executing a personal bond and furnishing two reliable sureties, each of the like amount, to the satisfaction of the court concerned, subject to the following conditions:-

- (i) The applicant or any of his relatives shall not make any contract with the victim, in any manner, whatsoever, either physically, electronically or by any other means.

(ii) The applicant 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 him from disclosing the facts to Court or any Police Officer and the applicant should not tamper with evidence.

(Ravindra Maithani, J.)
07.01.2026

Sanjay