



HIGH COURT OF JUDICATURE AT ALLAHABAD
CRIMINAL MISC. BAIL APPLICATION No. - 10438 of 2026

Vinod Gautam

.....Applicant(s)

Versus

State Of U.P. And 3 Others

.....Opposite
Party(s)

Counsel for Applicant(s)	:	Kalp Nath, Vivekanand
Counsel for Opposite Party(s)	:	G.A., Udisha Tripathi

Court No. - 65
(Sl. No. 73 out of 259)

HON'BLE KRISHAN PAHAL, J.

1. List has been revised. As informed by learned A.G.A. notice to the informant has been served on 26.4.2026.

2. Heard Sri Kalp Nath, learned counsel for the applicant, Ms. Udisha Tripathi, learned counsel for the opposite party no.4 as well as Sri Sunil Kumar, learned A.G.A. for the State and perused the material placed on record.

3. Applicant seeks bail in Case Crime No. 46 of 2025, under Sections 137(2), 87, 65(1) BNS and 3/4 POCSO Act, Police Station Sujanganj, District Jaunpur, during the pendency of trial.

ARGUMENTS ON BEHALF OF APPLICANT:

4. The applicant is absolutely innocent and has been falsely implicated in the present case. The FIR is delayed by about three days and there is no explanation of the said delay caused.

5. The victim is a consenting party as is but evident from her statement recorded under Section 183 B.N.S.S., whereby she has stated that she had gone all the way from her native place to Delhi with the applicant and married him in a temple and had further travelled with him to Jammu & Kashmir.

6. The victim, by her physical appearance, seems to be major although her

age is 15 years as per her own statement. There is no valid document to suggest that victim was minor. The applicant himself is a youth aged about 19 years. The matter of consensual relationship between two adolescents have been converted to criminal case by the informant.

7. Learned counsel for the applicant has further stated that there is no criminal history of the applicant. The applicant is languishing in jail since 27.7.2025 and he is ready to cooperate with trial. In case, the applicant is released on bail, he will not misuse the liberty of bail.

ARGUMENTS ON BEHALF OF STATE/INFORMANT:

8. Learned A.G.A. and learned counsel for opposite party no.4 have vehemently opposed the bail application but could not dispute the submissions made by the counsel for the applicant.

CONCLUSION:

9. POCSO was formulated to protect children under the age of 18 years from sexual exploitation. Nowadays more often than not it has become a tool for their exploitation. The Act was never meant to criminalise consensual romantic relationships between adolescents. However, this has to be seen from the facts and circumstances of each case.

10. The fact of consensual relationship borne out of love should be of consideration while granting bail because it would amount to perversity of justice if the statement of victim was ignored and accused was left to suffer behind jail.

11. Keeping in view the nature of the offence, evidence on record regarding complicity of the accused, the statement of victim, larger mandate of the Article 21 of the Constitution of India and without expressing any opinion on the merits of the case, the Court is of the view that the applicant has made out a case for bail. The bail application is ***allowed.***

12. Let the applicant- **Vinod Gautam**, who is involved in aforementioned

case crime be released on bail on his furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned subject to verification of sureties, with the condition that he shall not tamper with evidence or intimidate witnesses and shall appear before the trial court as required.

13. In case of breach of any of the above conditions, it shall be a ground for cancellation of bail.

14. It is made clear that observations made in granting bail to the applicant shall not in any way affect the learned trial Judge in forming his independent opinion based on the testimony of the witnesses.

(Krishan Pahal,J.)

May 6, 2026
Shalini