



HIGH COURT OF JUDICATURE AT ALLAHABAD
CRIMINAL MISC. BAIL APPLICATION No. - 13121 of 2025

Avadhesh

.....Applicant(s)

Versus

State Of U.P. And 3 Others

.....Opposite
Party(s)

Counsel for Applicant(s) : Neelam Singh, Preet Pal Singh Rathore
Counsel for Opposite Party(s) : Bharat Singh, G.A.

Court No. - 65
(Sr. No.85 out of 243)

HON'BLE KRISHAN PAHAL, J.

1. List has been revised.
2. Heard Sri Preet Pal Singh Rathore, learned counsel for applicant, Sri Bharat Singh, learned counsel for the informant as well as Sri Jai Kishan Chaurasia, learned State Law Officer for the State and perused the material placed on record.
3. The present bail application has been filed by the applicant in Case Crime No.43 of 2025, under Sections 64(1) B.N.S. and Section 3/4 POCSO Act, Police Station Gunnaur, District Sambhal with the prayer to enlarge him on bail.
4. As per prosecution story, the applicant is stated to have raped the victim, who is about 15 years old, on 11.2.2025 at about 8 p.m.
5. Learned counsel for the applicant has stated that the FIR is delayed by about four hours and there is no explanation of the said delay caused. The age of the victim, as per FIR, was 15 years and as per academic qualification of class 5th, her date of birth is 1.2.2009, as such, she was about 16 years and 10 days old. As per the statement of victim recorded under Section 180 and 183 BNSS, she has given a vacillating statement about her age to be 15 and 16 years, respectively. It is a clear cut case of false implication, as there is no medical corroboration of the incident.
6. Learned counsel for the applicant has further stated that the doctor

conducting medical examination has not found any injury on the vital part of the body of the victim. Even the FSL report does not indicate presence of any spermatozoa in the smear of the victim. The truth is that applicant had purchased certain land, which was adjacent to the agricultural land of the informant and applicant as well. The informant was also interested in purchasing the said land, but he could not do so, as such, having failed purchasing the said land, he has instituted the said FIR.

7. It is further argued by learned counsel for the applicant that the said fact that applicant and informant had their lands adjoining to each other, stands admitted by the informant in his cross-examination. As such, the applicant is entitled to bail. The criminal history assigned to the applicant has been explained. The applicant is in jail since 12.2.2025 and he is ready to cooperate with trial. In case, the applicant is released on bail, he will not misuse the liberty of bail.

8. Per contra, learned counsel for the informant and learned State Law Officer have vehemently opposed the bail application on the ground that the trial is at its conclusive end and the FIR is prompt. Medical corroboration is not necessary in the instant case. Even the rigors of Section 120 Bharatiya Sakshya Adhiniyam applies to the instant case as the statement of victim itself is enough, as she was not a consenting party. As such, the applicant is not entitled to bail.

9. This Court had called for the status of trial from the concerned trial court. As per the said status report dated 11.5.2026, the prosecution evidence was already complete and ten witnesses were examined by the prosecution, and subsequently after recording the statement of accused under Section 351 BNSS, the arguments of rival parties were heard and case is fixed for pronouncement of final judgment on 14.5.2026. As such, nothing remains in the instant case.

10. After hearing learned counsel for the parties and taking into consideration the statement of victim being contested one during trial and also the fact that trial is fixed for pronouncement of judgment on 14.05.2026, I do not find it a fit case for grant of bail to the applicant. The bail application is found devoid of merits and is, accordingly, **rejected**.

11. However, it is directed that the aforesaid case pending before the trial court be decided expeditiously, in accordance with law, if there is no legal impediment.

12. It is clarified that the observations made herein are limited to the facts brought in by the parties pertaining to the disposal of bail application and the said observations shall have no bearing on the merits of the case during trial.

(Krishan Pahal,J.)

May 12, 2026
Vikas Verma