



2026:AHJ:871196

HIGH COURT OF JUDICATURE AT ALLAHABAD
CRIMINAL MISC. BAIL APPLICATION No. - 12739 of 2025

Abhishek Rai

.....Applicant(s)

Versus

State Of U.P. And 3 Others

.....Opposite
Party(s)

Counsel for Applicant(s) : Amit Kumar Yadav, Namit Srivastava,
Sarhak Verma
Counsel for Opposite Party(s) : G.A., Prem Shankar Sharma

Court No. - 65
(Sr. No.99 out of 277)

HON'BLE KRISHAN PAHAL, J.

1. List has been revised. Compliance affidavit filed by learned A.G.A. is taken on record.
2. Heard Sri Amit Kumar Yadav, learned counsel for the applicant, Sri Sunil Kumar, learned A.G.A. for the State and perused the material placed on record. Learned counsel for the informant is not present.
3. Applicant seeks bail in Case Crime No.13 of 2025, under Sections 64(1), 115(2), 352, 351(2), 191(2) BNS and 3/4 POCSO Act, Police Station Sakaldeepa, District Chandauli, during the pendency of trial.
4. Learned counsel for the applicant has argued that the applicant is absolutely innocent and has been falsely implicated in the present case. There is nothing on record to suggest that applicant made viral any indecent photograph of the victim. There is only one photograph on record in which vermilion is seen on the forehead of the victim, which is not an indecent photograph.
5. Learned counsel for the applicant has further argued that the FIR itself is delayed by about eleven months and as far as the last occurrence is concerned it is delayed by about eleven days and there is no explanation of the said delay caused. The victim by her looks seems to be major, although she is stated to be marginally less than the age of majority as per the school certificate. The applicant has no criminal history and is in jail since

28.2.2025. He undertakes to cooperate with the trial and not misuse the liberty of bail.

6. Learned A.G.A. has vehemently opposed the bail application but the submissions raised by the learned counsel for the applicant could not be disputed.

7. The Supreme Court in ***Sushil Kumar vs. Rakesh Kumar***, (2003) 8 SCC 673 has stated that it is more often in the Indian Society that person shows the age of their wards much below than their actual age. In the case of ***Brij Mohan Singh vs. Priya Brat Narain Sinha***, AIR 1965 SC 282, this Court, inter alia, observed that in actual life it often happens that persons give false age of the boy at the time of his admission to a school so that later in life he would have an advantage when seeking public service for which a minimum age for eligibility is often prescribed.

8. Considering the facts and circumstances of the case, submissions made by learned counsel for the parties, the evidence on record, taking into consideration the inordinate delay in institution of FIR and also there being no recovery of any indecent photograph of the victim by the Investigating Officer, and without expressing any opinion on the merits of the case, *prima-facie* the Court is of the view that the applicant has made out a case for bail. The bail application is ***allowed***.

9. Let the applicant- **Abhishek Rai**, be released on bail on furnishing a personal bond and two sureties to the satisfaction of the court concerned, subject to verification of sureties, with the conditions that he shall not tamper with evidence or intimidate witnesses and shall appear before the trial court as required.

10. Breach of any condition shall entail cancellation of bail. The observations herein shall not affect the trial on merits.

(Krishan Pahal,J.)

April 20, 2026
Vikas Verma