



2026:AHC:86402

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. BAIL APPLICATION No. - 12975 of 2026

Ankit @ Nikhil

.....Applicant(s)

Versus

State Of U.P. And 3 Others

.....Opposite
Party(s)

Counsel for Applicant(s) : Sunit Kumar, Yatish Kumar Dwivedi
Counsel for Opposite Party(s) : G.A.

Court No. - 65
(Sl. No.4 out of 277)

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 9.4.2026.
2. Supplementary affidavit filed by learned counsel for the applicant is taken on record.
3. Heard Sri Sunit Kumar, learned counsel for the applicant as well as Sri Sunil Kumar, learned A.G.A. for the State and perused the material placed on record.
4. Applicant seeks bail in Case Crime No. 3 of 2026, under Sections 65(1), 351(2), 352, 131 BNS and 5L/6 POCSO Act, Police Station Kailiya, District Jalaun, during the pendency of trial.
5. Learned counsel for the applicant has argued that the applicant is absolutely innocent and has been falsely implicated in the present case. The victim is a consenting party as is but evident from her statement recorded under Section 183 B.N.S.S., whatsoever. The case of consensual relationship has been converted to that of criminal case by the informant. There is no medical corroboration of the incident as the victim has denied her medical examination. The victim, by her physical appearance, seems to be major although her age is 15 years and 3 months as per school certificate but the said document cannot be taken into consideration. There is no valid document to suggest that she is minor. The applicant himself is a youth of 20

years.

6. Learned counsel for the applicant has further stated that there is no criminal history of the applicant. The applicant is languishing in jail since 21.1.2026 and he is ready to cooperate with trial. In case, the applicant is released on bail, he will not misuse the liberty of bail.

7. Learned A.G.A. has vehemently opposed the bail application but could not dispute the submissions made by the counsel for the applicant.

8. Speaking on consensual relationships being criminalised, the Supreme Court in its recent judgment ***STATE OF U.P. VS. ANURUDH & ANR. reported in 2026 INSC 47*** has stated in Para-19 as follows:

“19. As the conclusions drawn above indicate the impugned judgment and order of the High Court has to be set aside on grounds of transgression of the jurisdiction present and thereby lacking the appropriate directions. It is to be set aside also because it goes against the statutory prescription under the JJ Act. Be that as it may, this Court has not lost sight of the well-intentioned purport of this order. The POCSO Act is one of the most solemn articulations of justice aimed at protecting the children of today and the leaders of tomorrow. Yet, when an instrument of such noble and one may even say basic good intent is misused, misapplied and used as a tool for exacting revenge, the notion of justice itself teeters on the edge of inversion. Courts have in many cases sounded alarm regarding this situation. Misuse of the POCSO Act highlights a grim societal chasm - on the one end children are silenced by fear and their families are constrained by poverty or stigma, meaning thereby that justice remains distant and uncertain, and on the other hand, those equipped with privilege, literacy, social and monetary capital are able to manipulate the law to their advantage. The impugned judgment is one amongst many where Courts have spoken out. Not only are instances rife where the age of the victim is misrepresented to make the incident fall under the stringent provisions of this law but also there are numerous instances where this law is used by families in opposition to relationships between young people. In *Satish alias Chand v. State of U.P.* CrI. Misc. Bail Appl. No. 18596 of 2024, the High Court, noted that on few occasions concern

had been expressed by the Court with respect to application of the Act on consenting adolescence when it comes to consensual relationships between teenagers, four factors have been highlighted which, is crucial for the Courts to consider:

“A. Assess the Context: Each case should be evaluated on its individual facts and circumstances. The nature of the relationship and the intentions of both parties should be carefully examined.

B. Consider Victim's Statement: The statement of the alleged victim should be given due consideration. If the relationship is consensual and based on mutual affection, this should be factored into decisions regarding bail and prosecution.

C. Avoid Perversity of Justice: Ignoring the consensual nature of a relationship can lead to unjust outcomes, such as wrongful imprisonment. The judicial system should aim to balance the protection of minors with the recognition of their autonomy in certain contexts. Here the age comes out to be an important factor.

D. Judicial Discretion: Courts should use their discretion wisely, ensuring that the application of POCSO does not inadvertently harm the very individuals it is meant to protect.”

[See also: *Mrigraj Gautam @ Rippu v. State of U.P.*] 2023:AHC:204171

The Delhi High Court in *Sahil v. the State NCT of Delhi* 2024:DHC:6100 the Court noted in para 11 of the order that POCSO cases filed at the behest of a girl's family objecting to romantic involvement with a young boy have become common place and consequent thereto these young boys languish in jails. Therein, reference is also made to an order of the Gujarat High Court (*Jayantibhai Babulbhai Alani v. State of Gujarat* 2018 SCC Online Guj. 1223), where the Court noted that considering the closeness in age of the prosecutrix and the accused as also the fact that she had left home of her own accord observed that the application deserved consideration.

9. Considering the facts and circumstances of the case, submissions made by learned counsel for the parties, the evidence on record, taking into consideration the fact that there is no medical corroboration of the incident and the statement of the victim recorded u/s 183 BNSS, whereby she seems to be consenting party 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**.

10. Let the applicant- **Ankit @ Nikhil**, 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.

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

12. 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.)

April 20, 2026
Shalini