



HIGH COURT OF JUDICATURE AT ALLAHABAD
CRIMINAL MISC. BAIL APPLICATION No. - 15575 of 2026

Disu Rai Alias Sumit Rai

.....Applicant(s)

Versus

State Of U.P. And 3 Others

.....Opposite
Party(s)

Counsel for Applicant(s) : Prakhar Saran Srivastava, Shashi
Bhushan Kunwar, Sr. Advocate
Counsel for Opposite Party(s) : G.A., Pramod Kumar Gupta

Court No. - 67

HON'BLE ARUN KUMAR SINGH DESHWAL, J.

1. Heard Sri Kamal Krishna, learned Senior Advocate assisted by Sri Shashi Bhushan Kunwar, learned counsel for the applicant, Sri Pramod Kumar Gupta, learned counsel for the first informant and Sri D.P.S. Chauhan, learned A.G.A. for the State.
2. Instant bail application has been filed with a prayer to release the applicant on bail during the trial in graciously be pleased to release the applicant on bail in Case Crime No. 0161 of 2025, under Sections 103(1), 70(2), 351(3) of the Bharatiya Nyaya Sanhita, 2023, Sections 5(j)(ii) /6, 5(g)/6, 5(m)/6 POCSO Act and Section 3(2)(v) SC/ST.
3. Contention of learned counsel for the applicant is that in the FIR, mother of the deceased has made allegation that all the accused persons including the present applicant committed rape upon her daughter and hanged her showing it a case of suicide. During the investigation, mother of the deceased reiterated the story of FIR but did not mention any eye witness regarding incident in question. Subsequently, the accused persons were arrested and it was found that co-accused Ramji Rai was having injury on his private part but the present applicant did not have any injury on private part though the post mortem report of the deceased shows that rape was also committed before hanging. After 28 days, one Maya Devi as well as Chitranjan Ram recorded their statements on 15.07.2025 and 02.08.2025 mentioning therein that immediately after the incident, they had seen the applicant and other co-accused persons have left the house of

the deceased hurriedly.

4. Learned counsel for the applicant submitted that even the DNA of the applicant does not match with DNA of vaginal smear found on the body of the deceased. It is further submitted that no one has seen the applicant entering or leaving the house of the deceased and two eye witnesses Maya Devi and Chitranjan Ram were introduced after 28 days of the incident without any explanation. They have simply mentioned that they had seen the accused persons including the applicant hurriedly leaving the house of the deceased after the alleged incident. He further submitted that eye witness Maya Devi in her statement stated that on the next date of incident, she has informed the mother of the deceased that the accused persons had left the house of the deceased hurriedly but this fact was not mentioned either in the FIR or in the statement of first informant.

5. Learned counsel for the applicant further relied upon the judgment of the Supreme Court in the case of **Panda Nana Kare vs State of Maharashtra reported in 1980(1) SCC 131**, wherein the Apex Court has observed that non disclosing assailant's name immediately can be ground to discard the prosecution story. He has also relied upon the judgement of this Court in the case of **Rohit Patel vs state of U.P.; 2026 LiveLaw (AB) 194**, wherein this Court observed that recording the statement of witnesses after considerable delay without reasonable explanation may doubt the prosecution story. It is lastly submitted that charge sheet has been filed by the police, therefore, there is no requirement for custodial interrogation. The applicant has explained the criminal history of one case in the accompanying affidavit and he is languishing in jail since 10.07.2025. In case, he is granted bail, he will not misuse the liberty of bail and would cooperate in the trial proceedings.

5. On the other hand, learned counsel for the first informant vehemently opposed the prayer for bail and submitted that co-accused Ramji Rai was having motive to commit the rape and injuries were also found on his private part and the present applicant is also family members of the Ramji Rai and there are eyewitness stating that the applicant is also accompanied the co-accused Ramji Rai immediately after the incident. Therefore, he is not entitled to be released on bail

6. Per contra, learned AGA also adopted the argument of the first informant but could not dispute the aforesaid fact.

7. Considering the entire facts and circumstances of the case, submissions of learned counsel for the parties and keeping in view the nature of offence, evidence, complicity of accused and taking into account overcrowded jails and heavy pendency of criminal cases before the trial courts as well as considering the mandate of the judgement of the Apex Court in the case of **Kapil Wadhawan vs Central Bureau of Investigation** reported in **2025 SCC Online SC 3038** as well as guideline of this Court in the case of **Maya Tiwari vs State of U.P.** reported in **2024 SCC Online All 6765** regarding grant of bail and without expressing any opinion on the merits of the case, I am of the opinion that the applicant is entitled to be enlarged on bail. Accordingly, the present application is allowed.

8. Let the applicant- **Disu Rai @ Sumit Rai** involved in the aforementioned 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, with the following conditions:-

- i. 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 such facts to the Court or to any police officer or tamper with the evidence.
- ii. The applicant shall cooperate in the trial/investigation sincerely without seeking any adjournment.
- iii. The applicant shall not indulge in any criminal activity or commission of any crime after being released on bail.
- iv. The applicant shall attend in accordance with the conditions of the bond executed by him.

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

10. Identity, status and residence proof of the applicant and sureties be

verified by the court concerned before the bonds are accepted.

11. Verification of mobile number as well as Aadhaar Card of the applicant and sureties should also be conducted by the court concerned.

12. It is made clear that the applicant shall be released on the basis of downloaded copy of this order from the official website of High Court Allahabad and verified by the concerned counsel with the undertaking that the certified copy will be filed within 15 days.

13. It is directed that the trial court shall send the release order to the concerned jail through Bail Order Management System (BOMS) to ensure early release of the applicant.

14. Office is directed to send a copy of this order to the applicant through **Mau Jail Superintendent** via e-mail or e-prison portal within 24 hours in compliance of the order of the Apex Court in the case of **Policy Strategy for Grant of Bail, In Re: Suo Motu Writ Petition (Crl.) No. 4 of 2021 decided on 31.01.2023** reported in **(2024) 10 SCC 685**.

(Arun Kumar Singh Deshwal,J.)

May 7, 2026

A.Kr.