



HIGH COURT OF JUDICATURE AT ALLAHABAD
CRIMINAL MISC. BAIL APPLICATION No. - 15296 of 2026

Shoaib

.....Applicant(s)

Versus

State Of U.P. And 3 Others

.....Opposite
Party(s)

Counsel for Applicant(s)	:	Gaurav Kumar Singh
Counsel for Opposite Party(s)	:	G.A.

Court No. - 65
(Sl. No. 53 out of 269)

HON'BLE KRISHAN PAHAL, J.

1. List has been revised.
2. Heard Sri Gaurav Kumar Singh, learned counsel for the applicant as well as Sri A.K. Mishra, learned A.G.A. for the State and perused the material placed on record.
3. Applicant seeks bail in Case Crime No. 901 of 2025, under Sections 64(1), 352, 351(3), 61(2) BNS and 3(II)(V) SC/ST Act and 3/4 POCSO Act, Police Station Khair, District Aligarh, during the pendency of trial.

PROSECUTION STORY:

4. The co-accused persons Munassir is stated to have committed rape with the victim and the applicant along with Arbaz is stated to have stood guard to it on 19.12.2025 at about 3.00 pm.

ARGUMENTS ON BEHALF OF APPLICANT:

5. The applicant is absolutely innocent and has been falsely implicated in the present case. The FIR categorically indicates that victim was ravished by the co-accused person Arbaz. The only allegation against the applicant was of standing guard but the said story has been changed drastically by the victim in her statement recorded under Section 183 B.N.S.S., and she has allayed that applicant along with the main accused person Arbaz had committed gang rape with her. The said allegations have been added as an afterthought. The

victim in her statement recorded u/s 180 BNSS has even failed to identify the applicant.

6. There is no test identification parade conducted as per Section 7 of the BSA to indicate the complicity of the applicant, as such, the applicant is entitled for bail.

7. The victim, by her physical appearance, seems to be major although her age is 16 years as per ossification test report. In view of the inherent margin of error in such tests, it is urged that a leverage of two years on the upper side may be granted to the applicant while determining the age of the victim.

8. There is no criminal history of the applicant. The applicant is languishing in jail since 26.3.2026 and he is ready to cooperate with trial. In case, the applicant is released on bail, he will not misuse the liberty of bail.

ARGUMENTS ON BEHALF OF STATE/INFORMANT:

9. The bail application has been opposed but the submissions raised by counsel for the applicant has not been opposed.

CONCLUSION:

10. Considering the facts and circumstances of the case, submissions made by learned counsel for the parties, the evidence on record, taking into consideration the vacillating statements of the victim at various stages and there being no test identification parade of the applicant conducted to indicate his complicity 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**.

11. Let the applicant- **Shoaib**, 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.

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

13. 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 14, 2026
Shalini