



2026:AHC:90749

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. BAIL APPLICATION No. - 18795 of 2025

Bheem

.....Applicant(s)

Versus

State Of U.P. And 3 Others

.....Opposite Party(s)

Counsel for Applicant(s)	:	Abhishek Tiwari, Balram Jee Verma, Mamta Singh
Counsel for Opposite Party(s)	:	G.A.

Court No. - 65
(Sl. No.84 out of 259)

HON'BLE KRISHAN PAHAL, J.

1. List has been revised. As informed by learned State Law Officer, notice to the informant has been served on 26.5.2025.
2. Supplementary affidavit filed by learned counsel for the applicant is taken on record.
3. The ossification test report of the victim has been received in compliance of order dated 16.3.2026. As per the report, she is 17 years old. The report be returned to the office of the concerned C.M.O. after retaining the photocopy thereof.
4. Heard Sri Balram Jee Verma, learned counsel for the applicant as well as Sri R.P. Patel, learned State Law Officer, and perused the material placed on record.
5. Applicant seeks bail in Case Crime No. 509 of 2024, under Sections 137(2), 87, 65(1) BNS and 5/6 POCSO Act, Police Station Gagaha, District Gorakhpur, during the pendency of trial.
6. 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. The victim, by her physical appearance, seems to be major although her age is 17 years as per ossification test report and a leverage of two years may be granted to the applicant on the upper side.
7. Learned counsel for the applicant has further stated that there is a criminal history of three cases assigned to the applicant which stands explained. The applicant is

languishing in jail since 16.4.2025 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. Learned State Law Officer has vehemently opposed the bail application but could not dispute the submissions made by the counsel for the applicant.

9. In the judgement of Supreme Court passed in *Jaya Mala Vs. State of J & K, (1982) 2 SCC 538* and *Mohd. Imran Khan vs. State (Govt. of NCT of Delhi), (2011) 10 SCC 192*, it has been opined that the radiologist cannot predict the correct date of birth rather there is a long margin of 1 to 2 years on either side.

10. The Supreme Court in *Prabhakar Tewari vs. State of U.P. And Another, (2020) 11 SCC 648* has observed that pendency of several criminal cases against an accused itself cannot be a basis for refusal of bail, if otherwise his case for bail is made out.

11. Considering the facts and circumstances of the case, submissions made by learned counsel for the parties, the evidence on record, taking into consideration 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**.

12. Let the applicant- **Bheem** 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.

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

14. 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 23, 2026

Shalini