



2026:AHC:90797

HIGH COURT OF JUDICATURE AT ALLAHABAD
CRIMINAL MISC. BAIL APPLICATION No. - 21506 of 2025

Firoz

.....Applicant(s)

Versus

State Of U.P. And 3 Others

.....Opposite
Party(s)

Counsel for Applicant(s) : Mohd. Samiuzzaman Khan, Shafaque,
Shyamu Shukla
Counsel for Opposite Party(s) : G.A., Vishnu Swaroop Srivastava

Court No. - 65
(Sl. No. 90 out of 259)

HON'BLE KRISHAN PAHAL, J.

1. List has been revised.
2. Heard Sri Mohd. Samiuzzaman Khan, learned counsel for the applicant, Sri Vishnu Swaroop Srivastava, learned counsel for the informant as well as Sri Sunil Kumar, learned A.G.A. for the State and perused the material placed on record.
3. Applicant seeks bail in Case Crime No. 203 of 2025, under Sections 65(1), 333, 351(3), 352 BNS and 3/4 POCSO Act and 3(1)Da, Dha, 3(2)(5), 3(2)(5a) SC/ST Act, Police Station Gulriha, District Gorakhpur, 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. The FIR is delayed by five hours and there is no explanation of the said delay caused. The allegations in the FIR were of only disrobing the victim and attempting to commit rape but the same have been escalated to that of rape by the victim in her statement recorded u/s 180 and 183 BNSS. The said statements have been recorded after tutoring. There is no medical corroboration of the incident.
5. Learned counsel for the applicant has further stated that there is a criminal history of one case assigned to the applicant which stands explained. The applicant is languishing in jail since 13.3.2025 and he is ready to cooperate

with trial. In case, the applicant is released on bail, he will not misuse the liberty of bail.

6. Learned A.G.A. and learned counsel for the informant have vehemently opposed the bail application but could not dispute the submissions made by the counsel for the applicant.

7. 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.

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 delay in FIR; the allegations in the FIR were of disrobing the victim and attempting to commit rape only; there being no medical corroboration of the incident 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**.

9. Let the applicant- **Firoz**, 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.

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

11. 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