



2025:AHJ:87111

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. BAIL APPLICATION No. - 23573 of 2025

Arun Kashyap

.....Applicant(s)

Versus

State Of U.P. And 3 Others

.....Opposite
Party(s)

Counsel for Applicant(s) : Puneet Kumar Shukla, Sarvind Kumar Pandey

Counsel for Opposite Party(s) : Digvijay Singh, G.A., Jaideep Kumar Singh, Sudhir Kumar Singh

Court No. - 65

(Sl. No. 132 out of 277)

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 27.6.2025.
2. Heard Sri Sarvind Kumar Pandey, learned counsel for the applicant as well as Sri R.P. Singh, learned State Law Officer and perused the material placed on record. None is present on behalf of the informant.
3. Applicant seeks bail in Case Crime No. 413 of 2025, under Sections 70(2) BNS and 5g/6 POCSO Act, 3(2)(V), 3(1)D, 3(1)DH SC/ST (P.A.) Act, Police Station Majhola, District Moradabad, 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 statement of the victim is vacillating at the time of recording of her statement u/s 183 BNSS, as such, the story cannot be believed. The applicant has simply been made an accused on account of his friendship with the main accused person Anuj.
5. Learned counsel for the applicant has further stated that there is no criminal history of the applicant. The applicant is languishing in jail since 11.5.2025 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 State Law Officer has vehemently opposed the bail application but could not dispute the submissions made by the counsel for the applicant.

7. The allegations of applicant having rendered her unconscious by putting clothes on her face cannot be relied in the light of observations in Modi's Medical Jurisprudence & Toxicology, Twenty-Second Edition (Student Edition) at page 511, which is being reproduced as under:

“..... Concerning the administration of an anaesthetic drug, such as chloroform, it must be remembered that it is impossible to anaesthetise a woman against her will while she is awake. Even a skilled anaesthetist requires the help of one or two assistants to hold a patient forcibly down on the operating table during the first stage of anaesthesia, although the patient voluntarily inhales it for an operation. ***It is also impossible for an inexperienced man to anaesthetise a sleeping person without disturbance, so as to substitute artificial sleep for natural sleep. Hence the story often published in the lay press of a woman having been rendered suddenly unconscious by a handkerchief soaked in chloroform held over her face and then raped is not to be believed.*** It must be borne in mind that a woman, especially of an excitable and emotional temperament, during the stage of anaesthesia, might get a dream or hallucination that she has been raped, and may insist on the belief after the effects of anaesthesia have passed off, so that she brings an accusation of violation against her medical attendant.”

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 vacillating statement of the victim at the time of recording of her statement u/s 183 BNSS 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- **Arun Kashyap**, 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 20, 2026
Shalini