



2026:AHC:91060

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. BAIL APPLICATION No. - 22855 of 2025

Sarwan Kevat

.....Applicant(s)

Versus

State Of U.P. And 3 Others

.....Opposite
Party(s)

Counsel for Applicant(s)	:	Nanhe Lal Tripathi
Counsel for Opposite Party(s)	:	G.A.

Court No. - 65

(Sl. No. 97 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 26.06.2025 but none is present on behalf of the informant.
2. Heard Sri Nanhe Lal Tripathi, learned counsel for the applicant and Sri Jai Kishan Chaurasia, learned State Law Officer and also perused the material placed on record.
3. Applicant seeks bail in **Case Crime No. 66 of 2024, under Sections 363, 376 of IPC and Sections 3/4 of POCSO Act, Police Station - Madawara, District - Lalitpur**, during the pendency of trial.
4. Learned counsel for the applicant has argued that the applicant has been falsely implicated in the present case. The story as narrated by the victim in her statement recorded under Section 183 BNSS cannot be believed, as she has stated that the applicant, being an auto driver, met her, took her to his house, and committed rape upon her twice.
5. Learned counsel has next contended that the victim appears major by her looks, although the ossification test report puts her age at 16 years thus, a leverage of two years on the upper side may be granted to the applicant in light of the law laid down by the Supreme Court. There is no medical corroboration of the incident. The trial is not progressing, as not a single witness has been examined to date. There is no criminal history of

the applicant. The applicant is in jail since 23.02.2025. In case, the applicant is released on bail, he will not misuse the liberty of bail and shall cooperate with trial.

6. Per contra, learned State Law Officer has vehemently opposed the bail application but unable to dispute the submissions raised by the learned counsel for the applicant and also the fact that the applicant has no criminal history.

7. With respect to the age of the victim, a leverage of two years can be granted to the applicant on the upper side in light of 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*, whereby 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.

8. Considering the facts and circumstances of the case, submissions made by learned counsel for the parties, nature of offence, severity of punishment, the aforesaid judgement(s) of Supreme Court and also considering the glacial pace of trial as not a single witness has been examined coupled by the fact that there being no medical corroboration of the incident, *prima facie* I find it a fit case to release the applicant on bail. The bail application is **allowed**.

9. Let the applicant- **Sarwan Kevat**, be released on bail on furnishing a personal bond and two sureties to the satisfaction of the court concerned, subject to verification of sureties, with the conditions that he shall not tamper with evidence or intimidate witnesses and shall appear before the trial court as required.

10. Breach of any condition shall entail cancellation of bail. The observations herein shall not affect the trial on merits.

(Krishan Pahal,J.)

April 23, 2026

Siddhant