



2026:AHC:91700

HIGH COURT OF JUDICATURE AT ALLAHABAD
CRIMINAL MISC. BAIL APPLICATION No. - 26338 of 2025

Ravi Kumar

.....Applicant(s)

Versus

State Of U.P. And 3 Others

.....Opposite
Party(s)

Counsel for Applicant(s)	: Kunwar Bikram Suryabansh, Sandeep Kumar Yadav, Subhash Chandra Pandey, Vinay Kumar Singh Chandel
Counsel for Opposite Party(s)	: Arun Kumar Singh, G.A.

Court No. - 65
(Sl. No. 133 out of 259)

HON'BLE KRISHAN PAHAL, J.

1. List has been revised.
2. Heard Sri Kunwar Bikram Suryabansh, learned counsel for the applicant and Sri Arun Kumar Singh, learned counsel for the informant as well as Sri V.K.S. Parmar, learned A.G.A. for the State and also perused the material placed on record.
3. Applicant seeks bail in **Case Crime No. 117 of 2025, under Sections 137(2), 65(1) of BNS and Sections 3/4 of POCSO Act, Police Station - Rajghat, District - Gorakhpur**, during the pendency of trial.
4. Learned counsel for the applicant has argued that the applicant has been falsely implicated in the present case. It is also stated that the victim is the consenting party as is evident from her statement recorded u/s 183 BNSS as she has gone with the applicant all the way to Nalanda, Bihar and has not raised any alarm whatsoever. The victim and the applicant are stated to have agreed to marry each other.
5. Learned counsel has next contended that as per the statement of the victim, she is 16 years old but by her looks, she seems to be major. The applicant himself is 19 years old youth. There is no medical corroboration of the incident. There is no criminal history of the applicant. The applicant is in jail since 20.06.2025. 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 AGA and learned counsel for the informant have 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. Speaking on consensual relationships being criminalised, the Supreme Court in its recent judgment **STATE OF U.P. VS. ANURUDH & ANR.** reported in **2026 INSC 47** has stated in Para-19 as follows:

"19. As the conclusions drawn above indicate the impugned judgment and order of the High Court has to be set aside on grounds of transgression of the jurisdiction present and thereby lacking the appropriate directions. It is to be set aside also because it goes against the statutory prescription under the JJ Act. Be that as it may, this Court has not lost sight of the well-intentioned purport of this order. The POCSO Act is one of the most solemn articulations of justice aimed at protecting the children of today and the leaders of tomorrow. Yet, when an instrument of such noble and one may even say basic good intent is misused, misapplied and used as a tool for exacting revenge, the notion of justice itself teeters on the edge of inversion. Courts have in many cases sounded alarm regarding this situation. Misuse of the POCSO Act highlights a grim societal chasm - on the one end children are silenced by fear and their families are constrained by poverty or stigma, meaning thereby that justice remains distant and uncertain, and on the other hand, those equipped with privilege, literacy, social and monetary capital are able to manipulate the law to their advantage. The impugned judgment is one amongst many where Courts have spoken out. Not only are instances rife where the age of the victim is misrepresented to make the incident fall under the stringent provisions of this law but also there are numerous instances where this law is used by families in opposition to relationships between young people. In Satish alias Chand v. State of U.P. CrI. Misc. Bail Appl. No. 18596 of 2024, the High Court, noted that on few occasions concern had been expressed by the Court with respect to application of the Act on consenting adolescence when it comes to consensual relationships between teenagers, four factors have been highlighted which, is crucial for the Courts to consider:

"A. Assess the Context: Each case should be evaluated

on its individual facts and circumstances. The nature of the relationship and the intentions of both parties should be carefully examined.

B. Consider Victim's Statement: The statement of the alleged victim should be given due consideration. If the relationship is consensual and based on mutual affection, this should be factored into decisions regarding bail and prosecution.

C. Avoid Perversity of Justice: Ignoring the consensual nature of a relationship can lead to unjust outcomes, such as wrongful imprisonment. The judicial system should aim to balance the protection of minors with the recognition of their autonomy in certain contexts. Here the age comes out to be an important factor.

D. Judicial Discretion: Courts should use their discretion wisely, ensuring that the application of POCSO does not inadvertently harm the very individuals it is meant to protect."

[See also: ***Mrigraj Gautam @ Rippu v. State of U.P.*** **2023:AHC:204171**

The Delhi High Court in ***Sahil v. the State NCT of Delhi*** **2024:DHC:6100** the Court noted in para 11 of the order that POCSO cases filed at the behest of a girl's family objecting to romantic involvement with a young boy have become common place and consequent thereto these young boys languish in jails. Therein, reference is also made to an order of the Gujarat High Court (***Jayantibhai Babulbhai Alani v. State of Gujarat*** **2018 SCC Online Guj. 1223**), where the Court noted that considering the closeness in age of the prosecutrix and the accused as also the fact that she had left home of her own accord observed that the application deserved consideration.

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 statement of the victim recorded u/s 183 BNSS which indicates towards her consent 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- **Ravi Kumar**, 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.

April 23, 2026
Siddhant

(Krishan Pahal,J.)