



2026:AHC:196790

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. BAIL APPLICATION No. - 34328 of 2025

Om Prakash Nishad

.....Applicant(s)

Versus

State of U.P.

.....Opposite
Party(s)

Counsel for Applicant(s) : Anil Kumar Pandey, Neetu Pal

Counsel for Opposite Party(s) : G.A.

Court No. - 66

HON'BLE ARUN KUMAR SINGH DESHWAL, J.

1. Heard Ms. Neetu Pal, counsel for the applicant, Sri D.P.S. Chauhan, learned A.G.A. for the State and perused the record.

2. The instant bail application has been filed with a prayer to release the applicant on bail during trial in Case Crime No. 0365 of 2023, under Section 376, 506, 452 IPC and Section 67 of I.T. Act, Police Station Jhangha, District Gorakhpur.

3. This is second bail application. The first bail application being Criminal Misc. Bail Application No.2985 of 2024 was rejected on 14.11.2024.

4. Counsel for the applicant submitted that though in the FIR allegation has been made that the applicant was involved in sorcery and the victim used to come at his place for treatment and the applicant used to administer sedative to the victim and established physical relationship with the victim; the applicant also alleged to have prepared video of intimate moment; thereafter the applicant started blackmailing the victim and kept on committing rape upon with the victim and when the brother-in-law of the victim came to the house on 27.07.2023 and found the applicant and the victim in compromising position, then the FIR was lodged.

5. Counsel for the applicant submitted that the victim in her statement recorded under Section 180 and 183 BNSS reiterated the same allegation except admitting the fact that the date of incident was 18.07.2023 and the applicant had sent a video to the victim's brother-in-law on 22.07.2023; thereafter the FIR was lodged on 27.07.2023. Counsel for the applicant submitted that from the statement of the victim recorded during trial, it is clear that the victim was in consensual relationship with the applicant and she was not aware of the date and time of the incident and even this fact was admitted that her brother-in-law found the applicant and the victim in a compromising position then the FIR was lodged after nine days. It is further submitted that the medical examination report of the victim does not show any mark of injury or any sign of sexual assault. Even, the alleged obscene video as mentioned in the FIR as well as in the statement of the victim, shows that it was totally a consensual relationship between the applicant and the victim, therefore, the allegation of administering the sedative to the victim is incorrect. It is further submitted that the charge has been framed on 02.07.2024, but till date the trial has not concluded. It is further submitted that the victim has been examined, therefore, there is no chance of tempering with the witness or intimidation. It is further submitted that the applicant has no criminal history. It is further submitted that charge sheet has been filed in the present case, therefore, there is no requirement of custodial interrogation. The applicant is a law abiding citizen and he is languishing in jail since 30.11.2023. In case, he is granted bail, he will not misuse the liberty of bail and would cooperate in the trial proceedings.

6. Per contra, learned A.G.A. has vehemently opposed the prayer for bail but could not dispute the aforesaid facts.

7. Considering the entire facts and circumstances of the case, submissions of learned counsel for the parties; taking into account the statement of the victim and her brother-in-law; also taking into account the overview of the alleged video; coupled with medical examination report of the victim and keeping in

view the nature of offence, evidence, complicity of accused and without expressing any opinion on the merits of the case, I am of the opinion that the applicant is entitled to be enlarged on bail. Accordingly, the bail application is **allowed**.

8. Let the applicant- **Om Prakash Nishad** involved in the aforementioned 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, with the following conditions:-

- i. The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence.
- ii. The applicant shall cooperate in the trial/investigation sincerely without seeking any adjournment.
- iii. The applicant shall not indulge in any criminal activity or commission of any crime after being released on bail.
- iv. The applicant shall attend in accordance with the conditions of the bond executed by him.

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

10. Identity, status and residence proof of the applicant and sureties be verified by the court concerned before the bonds are accepted.

11. It is made clear that the applicant shall be released on the basis of computer generated copy of this order, downloaded from the official website of High Court Allahabad and verified by the concerned counsel with the undertaking that the certified copy will be filed within 15 days.

12. It is further directed that the trial court shall send the release

order to the concerned jail through Bail Order Management System (BOMS) to ensure early release of the applicant.

13. Office is directed to send a copy of this order to the applicant through concerned Jail Superintendent via e-mail or on e-prison portal and Trial Court via e-mode within 24 hours in compliance of the order of the Apex Court in the case of **Policy Strategy for Grant of Bail, In Re: Suo Motu Writ Petition (Crl.) No.4 of 2021** decided on 31.01.2023 reported in **(2024) 10 SCC 685** as well as **Pila Pahan @ Peela Pahan and others Vs. State of Jharkhand and another, in Writ Petition (Criminal) No. 169 of 2025**, decided on 29.05.2026.

September 18, 2026

CS/-

(Arun Kumar Singh Deshwal,J.)