



2026:AHC:206602

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL No. - 10008 of 2026

Rahul

.....Appellant(s)

Versus

State Of U.P. And 2 Others

.....Respondent(s)

Counsel for Appellant(s)	:	Ankit Mishra
Counsel for Respondent(s)	:	G.A., Vikas Mishra

Court No. - 76

HON'BLE SAMIT GOPAL, J.

1. List revised.

2. Heard Sri Ankit Mishra, learned counsel for the appellant, Sri Vikas Mishra, learned counsel for the opposite party no.2/first informant and Sri Ram Prakash Shukla, learned counsel for the State and perused the record. Although his name is printed in the cause list but vakalatnama is not on record. Office to trace out the same and place it on record and make a note in the order sheet about it.

3. This criminal appeal under Section 14A(2) of SC/ST (Prevention of Atrocities) Act, 1989 has been filed by the appellant Rahul with the prayer to set-aside the impugned judgment and order dated 02.09.2026 passed by Special Judge (SC/ST) Act, Kushinagar at Padrauna in Bail Application No. 1946 of 2026 (Rahul Vs. State of U.P. and another) arising out of Case Crime No. 217 of 2026, under Sections 191(2), 115(2), 352, 351(3), 333, 69 BNS and Section 3(1)(Da), 3(1)(Dha), 3(2)(v) of SC/ST Act, Police Station Ramkola, District Kushinagar and with a further prayer to release the appellant on bail in the aforesaid case.

4. The FIR of the matter was lodged on 16.05.2026 by Smt. Thagi Devi naming the appellant, three other persons and some unknown person as accused on the basis of an application moved under Section 173(4) BNSS alleging therein that Rahul a resident of neighbourhood of the village used to made a false promise to marry with her daughter since last one year and used to commit rape upon her. Later on, her daughter came to know that his marriage has been fixed somewhere else on which she asked about it from him to which he used caste related abuses and refused marriage. On 09.07.2025 at about 07:00 pm he and other accused came to her house and assaulted her daughter and Rahul then forcibly took her on a motorcycle to his house where he committed rape upon her. Police was informed on 112 number for an FIR but no action was taken. She gave an application for an FIR on which no action was taken and then an

application was sent by registered post to the Superintendent of Police concerned on which also no action was taken. Subsequently, she moved an application before the court concerned being Misc. Case No. 590 of 2026 which under some confusion was dismissed on 08.12.2025. She is moving this application with the prayers that the orders be passed for lodging of the FIR and punishing the accused.

5. Learned counsel for the appellant submitted that the appellant has been falsely implicated in the present case. It is submitted that the victim is a major girl aged about 20 years. It is submitted that the victim and the appellant were in a relationship since last one year on some discussion of marriage which could not materialize. It is further submitted that the victim although has supported the prosecution case in her statement under Section 180 BNSS which is as per FIR but in her statement under Section 183 BNSS she states that the appellant was habitual to intoxication and thus she refused marriage with him. It is submitted further that the victim was produced before the doctor who refused her medical examination. It is further submitted that previously an application under Section 173(4) BNSS of the informant was dismissed by the court concerned on 08.12.2025 after which a second application was moved on which an order was passed for lodging of the FIR in pursuance of which the present FIR has been lodged. It is submitted while placing para 10 of the affidavit that charge sheet in the matter has been submitted against the applicant on 17.08.2026. The appellant has no criminal history as stated in para 35 of the bail application in appeal and is in jail since 15.08.2026.

6. Per contra, learned counsel for the opposite party no.2 and State opposed the appeal and prayer for bail .

7. After having heard learned counsels for the parties and perusing the records, it is evident that the victim is a major girl. She was in relationship with the appellant since last one year on some discussion of marriage. There are contradictions in the statements recorded during investigation under Sections 180 and 183 BNSS. The investigation of the matter has been concluded and charge sheet has been submitted. The victim has refused her medical examination.

8. Looking to the facts and circumstances of this case, the nature of evidence and also the absence of any convincing material to indicate the possibility of tampering with the evidence, this Court is of the view that the appellant may be enlarged on bail.

9. Let the appellant- **Rahul** be released on bail in the aforesaid case crime number on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned with the following conditions which are being imposed in the interest of justice:-

i) The appellant will not tamper with prosecution evidence and will not

harm or harass the victim/complainant in any manner whatsoever.

ii) The appellant will abide the orders of court, will attend the court on every date and will not delay the disposal of trial in any manner whatsoever.

(iii) The appellant shall file an undertaking to the effect that he shall not seek any adjournment on the date fixed for evidence when the witnesses are present in court. In case of default of this condition, it shall be open for the trial court to treat it as abuse of liberty of bail and pass orders in accordance with law.

(iv) The appellant will not misuse the liberty of bail in any manner whatsoever. In case, the appellant misuses the liberty of bail during trial and in order to secure his presence proclamation under section 84 BNSS/82 Cr.P.C., may be issued and if appellant fails to appear before the court on the date fixed in such proclamation, then, the trial court shall initiate proceedings against him, in accordance with law, under section 209 BNS/174-A I.P.C.

(v) The appellant shall remain present, in person, before the trial court on dates fixed for (1) opening of the case, (2) framing of charge and (3) recording of statement under Section 251 BNSS/313 Cr.P.C. If in the opinion of the trial court absence of the appellant is deliberate or without sufficient cause, then it shall be open for the trial court to treat such default as abuse of liberty of bail and proceed against him in accordance with law and the trial court may proceed against him under Section 269 BNS/229-A IPC.

(vi) The trial court may make all possible efforts/endeavour and try to conclude the trial expeditiously after the release of the appellant.

10. The identity, status and residential proof of sureties will be verified by court concerned and in case of breach of any of the conditions mentioned above, court concerned will be at liberty to cancel the bail and send the appellant to prison.

11. Accordingly, the appeal succeeds and the same stands **allowed**.

12. The impugned judgment and order dated 02.09.2026 passed by Special Judge (SC/ST) Act, Kushinagar at Padrauna is hereby set aside.

(Samit Gopal,J.)

October 1, 2026
M. ARIF