



2026:AHC:200162

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. BAIL APPLICATION No. - 33165 of 2026

Akhilesh Kumar

.....Applicant(s)

Versus

State of U.P.

.....Opposite
Party(s)

Counsel for Applicant(s) : Kapil Yadav, Swati Agrawal Srivastava
Counsel for Opposite Party(s) : Utkarsh Tripathi, G.A.

Court No. - 66

HON'BLE ARUN KUMAR SINGH DESHWAL, J.

1. Heard Sri Swati Agrawal Srivastava, learned counsel for the applicant, Sri Utkarsh Tripathi, learned counsel for the first informant and Sri Rakesh Kumar Mishra, 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 in case crime no. 251 of 2026, under sections 64(2)(m), 115(2), 351(3) B.N.S., Police Station Colonalganj, District Prayagraj, during the pendency of the trial.
3. In pursuance of the order dated 17.09.2026, I.O. of this case is present and he apprised the court that though on preliminary examination of the mobile of the applicant, he could not find any obscene video of the victim. However after the order of this Court, he has sent the mobile of the applicant to FSL on 19.09.2026 and thereafter, chargesheet was filed on 21.09.2026. He further apprised to the Court that though the application submitted by the first informant to Commissioner of Police was received by him on 10.08.2026 but he did not proceed to recover the laptop and other electronic gadget of the applicant for the reason that the victim has not made any allegation that applicant has been using two mobile phones and the data regarding obscene video has been saved on his laptop. It is further apprised that immediately after receiving the FSL report, he will conduct further investigation if need arises after taking

appropriate permission from the concerned court. Though there is some negligence on the part of I.O. in conducting the investigation but court appreciates his fairness in telling the correct fact as well as his immediate response of sending the mobile phone of the applicant to FSL on 19.09.2026. Therefore, court is satisfied with the explanation submitted by the I.O.

4. Contention of learned counsel for the applicant is that from the FIR as well as statement of victim, it is clear that both of them were in relationship and this fact was admitted by the victim that she also conducted the abortion in hospital in three occasions. It is further submitted that the allegation of victim that on 16.05.2026, applicant had taken the victim to Hotel Grand Village, Jhunsi but the statement of receptionist shows that applicant and victim did not come to hotel on 16.05.2026 but both of them have come to hotel on 13.12.2025, 14.12.2025, 06.06.2026 and no abortion or threat appeared at the time of check-in in the hotel on the face of the victim. This creates doubt over the entire prosecution story. It is further submitted that as on date, there is no recovery of any obscene video or photo from the mobile phone of the applicant. Therefore, this further creates the doubt over the entire prosecution story. The correct fact is that both of them were in relationship, subsequently because of certain reason, the victim has lodged an FIR in question. 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 languishing in jail since 01.08.2026. In case, he is granted bail, he will not misuse the liberty of bail and would cooperate in the trial proceedings.

5. Per contra, learned counsel for the first informant and learned A.G.A. have vehemently opposed the prayer for bail and submitted that police has not conducted investigation properly and for that reason, no mobile phone or no obscene photo or video was recovered but could not dispute the fact that as on date, there is no obscene photo or video in the case diary as alleged by the victim in the statement as well as in the FIR.

6. Considering the aforesaid submission and taking into account the statement of victim recorded u/s 180 BNSS and 183 BNSS as well as the statement of receptionist of the hotel Grand Village disputing the allegation of prosecutrix to check-in at the hotel on 16.05.2026 and taking into account that no obscene video or photo was recovered till date by the police and keeping in view the nature of offence, evidence, complicity of the accused and taking into account overcrowded jails and heavy pendency of criminal cases before the trial courts as well as considering the mandate of the judgement of the Apex Court in the case of **Kapil Wadhawan vs Central Bureau of Investigation** reported in **2025 SCC OnLine SC 3038** as well as guideline of this Court in the case of **Maya Tiwari Vs. State of U.P.** reported in **2024 SCC Online All 6765** regarding grant of bail 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 present application is **allowed**.

7. Let the applicant- **Akhilesh Kumar**, 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.

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

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

10. Verification of mobile number and Aadhaar card of the applicant as well as sureties should be verified by the court concerned.

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 **Prayagraj 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**.

14. Incharge, FSL, Varanasi is directed to prepare the FSL report within one month and submit the same before the trial court.

(Arun Kumar Singh Deshwal,J.)

September 23, 2026
S.C.