



HIGH COURT OF JUDICATURE AT ALLAHABAD
CRIMINAL MISC. BAIL APPLICATION No. - 40871 of 2025

Suhail

.....Applicant(s)

Versus

State Of U.P. And 3 Others

.....Opposite
Party(s)

Counsel for Applicant(s)	:	Kushagra Srivastava, Shahrukh
Counsel for Opposite Party(s)	:	G.A., Mohammad Belal

Court No. - 65
(Sl. No. 113 out of 269)

HON'BLE KRISHAN PAHAL, J.

1. List has been revised. Two Rejoinder affidavits filed today by the learned counsel for the applicant are taken on record.
2. Heard Sri Shahrukh, learned counsel for the applicant and Sri Mohammad Belal, learned counsel for the informant as well as Sri Jai Kishan Chaurasia, learned State Law Officer and perused the material available on record.
3. Applicant seeks bail in **Case Crime No. 266 of 2025, under Sections 137(2), 65(1) B.N.S. and Sections 3/4 of POCSO Act, Police Station - Garhmukteshwar, District - Hapur, during the pendency of trial.**

PROSECUTION STORY:

4. The informant has stated that, on 06.05.2025 at about 04:00 a.m., when he woke up in the morning, he found his minor daughter, aged about 15 years, missing from the house. After making a frantic search, it is alleged that he came to know that the applicant had enticed her away.
5. It is further stated in the FIR that the applicant is a married person and that he was seen by villagers, namely, Mehrunisha and Rifaqat, enticing the victim away.
6. Upon learning of the alleged enticement, the informant is stated to have gone to the house of the applicant, where he met the applicant's father and

two uncles, namely, Asru, Azru and Nozar. When he enquired from them about the incident, they allegedly threatened him and turned him away from their house.

ARGUMENTS ON BEHALF OF APPLICANT:

7. The applicant has been falsely implicated in the present case due to ulterior motive. He has nothing to do with the said offence as alleged in the FIR.

8. The FIR was lodged on the same day, i.e. 06.05.2025, at about 03:56 p.m., but the same is delayed and no explanation for the delay has been furnished.

9. The time of the alleged elopement is not mentioned anywhere and that, while the FIR indicates the presence of co-accused Asru, Azru and Nozar in the village, the victim in her statement recorded u/s 183 BNSS has stated that the applicant was accompanied by these co-accused, who are his father and two uncles, in a car and that all four committed gang rape upon her. The victim has also stated that she returned home on the evening of 06.05.2025 itself, which renders the prosecution story improbable in view of the specific recital in the FIR regarding the presence of the said co-accused in the village and indicates a clear case of false implication.

10. It is lastly pointed out that the said three co-accused were exonerated by the police during investigation but were subsequently summoned by the Trial Court at the stage of cognizance, and that they have challenged the summoning order by filing an Application under Section 528 BNSS No. 33467 of 2025, in which further proceedings against them have been stayed by a co-ordinate Bench of this Court vide order dated 07.11.2025.

11. The applicant is languishing in jail since 10.05.2025, having no criminal history to his credit, deserves to be released on bail. In case, the applicant is released on bail, he will not misuse the liberty of bail and shall cooperate with trial.

ARGUMENTS ON BEHALF OF INFORMANT/ STATE:

12. The bail application has been vehemently opposed on the ground that the statement of the victim and the CCTV footage are consistent regarding the presence of the applicant and show him enticing the victim away, placing his case on a different footing from that of the other co-accused persons. It is, therefore, submitted that, the applicant being the main accused, is not entitled to be enlarged on bail.

CONCLUSION:

13. Considering the facts and circumstances of the case, the submissions of learned counsel for the parties, the vacillating stand of the victim at different stages, and the version in the FIR wherein the presence of the co-accused was shown only at the house and they were later alleged to have committed gang rape with the victim, this Court is, *prima facie*, of the view that the applicant has made out a case for bail.

14. Accordingly, the bail application is **allowed**.

15. Let the applicant- **Suhail**, 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.

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

(Krishan Pahal,J.)

May 14, 2026
Siddhant