



HIGH COURT OF JUDICATURE AT ALLAHABAD
CRIMINAL MISC. BAIL APPLICATION No. - 41878 of 2025

Nizam

.....Applicant(s)

Versus

State Of U.P. And 3 Others

.....Opposite
Party(s)

Counsel for Applicant(s) : Anita Singh, Dinesh Kumar Misra,
Irshad Ahmad
Counsel for Opposite Party(s) : Akhilesh Kumar Vishwakarma, G.A.,
Udisha Tripathi

Court No. - 65
(Sr. No.119 out of 259)

HON'BLE KRISHAN PAHAL, J.

1. List has been revised. Supplementary affidavit filed by learned counsel for the applicant is taken on record.
2. Heard Sri Irshad Ahmad and Ms. Anita Singh, learned counsels for the applicant, Sri Akhilesh Kumar Vishwakarma, learned counsel for the informant, Ms. Udisha Tripathi, learned counsel for High Court Legal Service Committee as well as Sri Jai Kishan Chaurasia, learned State Law Officer for the State and perused the record.
3. Applicant seeks bail in Case Crime No.385 of 2025, under Sections 137(1), 65(1), 351(2) BNS and 4(2) POCSO Act, Police Station Mundapandey, District Moradabad, during the pendency of trial.

PROSECUTION STORY:

4. On 19.08.2025 at about 01:00 p.m., the applicant and victim were seen coming out of the nursery of popular plants by the owner of the said nursery, and the victim was taken to her house by him, whereby her condition started deteriorated. After asking from the victim, she informed that she was subjected to rape by the applicant and was threatened by him.

ARGUMENTS ON BEHALF OF APPLICANT:

5. The applicant is absolutely innocent and has been falsely implicated in the

present case.

6. The FIR is delayed by about five days and there is no explanation of the said delay caused.

7. Even the medical examination of the victim was conducted on 25.08.2025, i.e. after a delay of six days of the incident.

8. Although there are five minor injuries sustained by the victim, but none of the injuries are on vital part of the body. Even the said medical examination report does not indicate the duration of the injuries anywhere. As such, it is a clear-cut case of false implication.

9. Even otherwise, the victim seems to be a consenting party, but the said story stands changed by the victim in her statement recorded under Section 183 BNSS, whereby she added color to the story stating that handkerchief was put on her face, making her unconscious, and she regained consciousness in the agricultural field.

10. She has also stated that on her raising of alarm, two more boys had reached there and they had assaulted the applicant and other accused persons.

11. The criminal history assigned to the applicant has been explained and he is in jail since 25.8.2025. He undertakes to cooperate with the trial and not misuse the liberty of bail.

ARGUMENTS ON BEHALF OF STATE/INFORMANT:

12. The bail application has been opposed but the submissions raised by the learned counsel for the applicant could not be disputed.

CONCLUSION:

13. Considering the facts and circumstances of the case, submissions made by learned counsel for the parties, the evidence on record, taking into consideration the delay of five days in institution of FIR and there being vacillating statement of the victim at different stages, and without expressing any opinion on the merits of the case, the Court is of the view that the applicant has made out a case for bail. The bail application is **allowed**.

14. Let the applicant- **Nizam**, 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.

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

(Krishan Pahal,J.)

May 6, 2026
Vikas Verma