



20250911:112567

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. BAIL APPLICATION No. - 44461 of 2025

Hashim

.....Applicant(s)

Versus

State Of U.P. And 3 Others

.....Opposite
Party(s)

Counsel for Applicant(s) : Onkar Singh, Sachin Malik
Counsel for Opposite Party(s) : G.A., Marjeet Mishra, Vijyeta Gupta

Court No. - 65

(Sr. No.++ out of 269)

HON'BLE KRISHAN PAHAL, J.

1. List has been revised. Learned A.G.A. has informed that notice to the informant has been served on 9.12.2025.

2. Heard Sri Sachin Malik, learned counsel for the applicant, Ms. Vijyeta Gupta, learned counsel for High Court Legal Service Committee as well as Sri R.P. Patel, learned State Law Officer for the State and perused the material placed on record. Learned counsel for the informant is not present.

3. Applicant seeks bail in Case Crime No.563 of 2025, under Sections 78, 137(2), 65(1) BNS and 3/4(2) POCSO Act, Police Station Baraut, District Baghpat, during the pendency of trial.

4. Learned counsel for the applicant has argued that the applicant is absolutely innocent and has been falsely implicated in the present case. The FIR is delayed by about two days and there is no explanation of the said delay caused. The victim has narrated the story to her parents on 31.9.2025 itself, even after narration of the said story, the FIR was instituted next day at 12:52 p.m., as such, it is a clear-cut case of false implication.

5. learned counsel for the applicant has further stated that the victim has stated that she was enticed away and was raped upon by the applicant. The victim was riding a bicycle and she left the bicycle and went with the applicant on a motorcycle. In the site-plan, the place from where the victim is stated to have been enticed away, is shown to be the house of informant

only, which further falsifies the prosecution story. There is no medical corroboration of the incident either.

6. It is further argued by learned counsel for the applicant that the victim is a consenting party. She by her looks seems to be major, although she is stated to be 15 years old as per the ossification test report. In view of the inherent margin of error in such tests, it is urged that a leverage of two years on the upper side may be granted to the applicant while determining the age of the victim. The applicant himself is a 22 years old youth. He has no criminal history and is in jail since 3.9.2025. He undertakes to cooperate with the trial and not misuse the liberty of bail.

7. Learned counsel for High Court Legal Service Committee and learned State Law Officer have vehemently opposed the bail application but the submissions raised by the learned counsel for the applicant could not be disputed.

8. 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 in institution of FIR coupled by the fact that victim seems to be a consenting party, and without expressing any opinion on the merits of the case, *prima-facie* the Court is of the view that the applicant has made out a case for bail. The bail application is **allowed**.

9. Let the applicant- **Hashim**, 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.

10. 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
Vikas Verma