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HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. BAIL APPLICATION No. - 44581 of 2025

Makkhan Alias Makhan

.....Applicant(s)

Versus

State Of U.P. And 3 Others

.....Opposite
Party(s)

Counsel for Applicant(s)	:	Brijesh Kumar Srivastava
Counsel for Opposite Party(s)	:	Brijesh, G.A.

Court No. - 65

(Sr. No.126 out of 269)

HON'BLE KRISHAN PAHAL, J.

1. List has been revised.
2. Heard Sri Brijesh Kumar Srivastava, learned counsel for the applicant, Sri Abhay Pratap Singh, Advocate holding brief of Sri Brijesh, counsel for the informant as well as Sri Rajendra Prasad Singh, learned State Law Officer for the State and perused the material placed on record.
3. Applicant seeks bail in Case Crime No.23 of 2025, under Sections 137(2), 87, 64(1) BNS and 5/6 POCSO Act, Police Station Gida, District Gorakhpur, during the pendency of trial.
4. As per the prosecution story, the FIR was instituted by the informant stating that his daughter had been missing since 9.1.2025. She called the informant on his phone and stated that she had gone to marry the applicant and that she was deeply in love with him. The applicant was already a married person, as such, the FIR was instituted.
5. 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 four days and there is no explanation of the said delay caused. The victim is a consenting party as is but evident from the FIR itself and the statement of victim recorded U/s 183 BNSS.
6. It is further argued by learned counsel for the applicant that the victim, by her looks, seems to be major, although she is stated to be 17 years old as per

her own statement. It is true that applicant is a married person, but the victim is a consenting party. The applicant has no criminal history and is in jail since 12.5.2025. He undertakes to cooperate with the trial and not misuse the liberty of bail.

7. Learned counsel for the informant and learned State Law Officer have vehemently opposed the bail application on the ground that the victim in her statement recorded U/s 183 BNSS has stated that the wife and children of the applicant were present there and he ravished her in his own house, 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 of four days in institution of FIR, as well as 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- **Makkhan Alias Makhan**, 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