



2025:AHJ:91587

HIGH COURT OF JUDICATURE AT ALLAHABAD
CRIMINAL MISC. BAIL APPLICATION No. - 43917 of 2025

Suresh Kumar Yadav

.....Applicant(s)

Versus

State Of U.P. And 3 Others

.....Opposite
Party(s)

Counsel for Applicant(s) : Ankit Agarwal, Shyam Babu, Vinay
Kumar Jaiswal

Counsel for Opposite Party(s) : G.A., Niharika Dubey, Rajeev Singh

Court No. - 65

(Sl. No.178 out of 259)

HON'BLE KRISHAN PAHAL, J.

1. List has been revised. Rejoinder affidavit filed by learned counsel for the applicant is taken on record.
2. Heard Sri Ankit Agarwal, learned counsel for the applicant, Sri A.K. Shukla, learned Advocate holding brief for Sri Rajeev Singh, learned counsel for the informant as well as Sri J.K. Chaurasia, learned State Law Officer and perused the material placed on record.
3. Applicant seeks bail in Case Crime No. 265 of 2025, under Sections 70(2), 115(2), 352, 351(3) BNS and 5(G)/6 POCSO Act, Police Station Jhunsi, District Prayagraj, during the pendency of trial.
4. As per prosecution story, the applicant is stated to have committed rape with the victim on 5.7.2025 at 6.35 pm in a mango orchard.
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 three days and there is no explanation of the said delay caused. The story as narrated by the victim in her statement recorded under Sections 180 and 183 B.N.S.S., is vacillating as she has increased the number of accused persons from one to three. The victim, by her physical appearance, seems to be major although her age is 16-17 years as per ossification test report and a leverage of two years may be granted to the applicant on the upper side.

6. Learned counsel for the applicant has further stated that there is no criminal history of the applicant. The applicant is languishing in jail since 13.11.2025 and he is ready to cooperate with trial. In case, the applicant is released on bail, he will not misuse the liberty of bail.

7. Learned A.G.A. and learned counsel for the informant have vehemently opposed the bail application but could not dispute the submissions made by the counsel for the applicant.

8. In the judgement of Supreme Court passed in *Jaya Mala Vs. State of J & K, (1982) 2 SCC 538* and *Mohd. Imran Khan vs. State (Govt. of NCT of Delhi), (2011) 10 SCC 192*, it has been opined that the radiologist cannot predict the correct date of birth rather there is a long margin of 1 to 2 years on either side.

9. 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 FIR; the vacillating statement of the victim 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**.

10. Let the applicant- **Suresh Kumar Yadav**, who is involved in aforementioned case 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 subject to verification of sureties, with the condition that he shall not tamper with evidence or intimidate witnesses and shall appear before the trial court as required.

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

12. It is made clear that observations made in granting bail to the applicant shall not in any way affect the learned trial Judge in forming his independent opinion based on the testimony of the witnesses.

(Krishan Pahal,J.)

April 23, 2026
Shalini