HIGH COURT OF JUDICATURE AT ALLAHABAD
CRIMINAL MISC. BAIL APPLICATION No. - 4738 of 2026

Upendra Kumar

.....Applicant(s)

Versus

State Of U.P. And 3 Others

.....Opposite Party(s)

Counsel for Applicant(s) : Ashwani Kumar Sachan, Saurabh Sachan
Counsel for Opposite Party(s) : G.A., Pooja Tripathi

Court No. - 64

HON'BLE VIVEK VARMA, J.

1. As per the office report dated 9.4.2026, service report is awaited.

2. Sri Anupam Anand, learned Brief Holder for the State submits that the notice of the present application has been served upon the informant on 05.02.2026 and C.W.C./opposite party no.4 on 09.02.2026. The receiving endorsements produced by learned Brief Holder are taken on record. However, no one appears on behalf of the said opposite parties nor any counter affidavit has been filed on their behalf.

3. Heard counsel for the applicant, learned Brief Holder for the State and Ms. Pooja Tripathi, counsel for the High Court Legal Service Committee. Perused the material available on record.

4. The present bail application has been filed with a prayer to enlarge the applicant on bail in Case Crime No. 295 of 2025, under Sections 137(2), 87, 65(1) B.N.S. and Section 3/4(2) of POCSO Act, Police Station- Gajner, District- Kanpur Dehat, during the pendency of trial.

5. Counsel for the applicant contends that the applicant has been falsely implicated in the present case. The victim is a major. The age of the victim was incorrectly got registered in the school records by the victim's parents to give her advantage in life. There is no lawful basis for the age related entry of the victim in the school records. The first information report does not contain any allegation of rape against the applicant. Further, the victim in her statement recorded under Section 183 B.N.S.S. stated that she had voluntarily gone to meet the applicant and had established relationship with him. There is no allegation of any forceful assault against the applicant. As

per the medical examination conducted on 5.10.2025, no external injury was seen on the body of the victim. At this stage, there is no corroborative evidence to link the applicant with the offence. The applicant is in jail since 07.10.2025 having no criminal antecedents and in case he is enlarged on bail, he will not misuse the said liberty.

6. Learned Brief Holder for the State has opposed the prayer for bail but could not satisfactorily dispute the aforesaid submissions from the record.

7. Having heard counsel for the parties and having perused the record, this Court *prima facie* finds that the first information report does not contain any allegation of rape against the applicant. As per the statement of the victim recorded under Section 183 B.N.S.S., she had voluntarily gone to meet the applicant and had established relationship with him. There is no allegation of any forceful assault against the applicant. As per the medical examination conducted on 5.10.2025, no external injury was seen on the body of the victim. At this stage, there is no corroborative evidence to link the applicant with the offence. Moreover, the applicant has no criminal antecedents and has remained confined for more than one year and there is no hope of early conclusion of trial, more so when no reasonable apprehension has been brought to the fore by the State that the applicant, if enlarged on bail, would either tamper with the evidence or delay the trial or intimidate the witness, without commenting on the merits of the case, I am of the opinion that the applicant is entitled to be enlarged on bail.

8. Let the applicant **Upendra Kumar**, involved in the aforesaid case be released on bail on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned subject to the conditions that he:

(i) shall appear on the date fixed by the trial court;

(ii) shall not tamper with the prosecution evidence; and,

(iii) shall not pressurize the prosecution witnesses.

9. In case of breach of any of the above conditions, the prosecution shall be at liberty to move bail cancellation application before this Court.

October 23, 2026
Manish Kr

(Vivek Varma,J.)

Digitally signed by :-
MANISH KUMAR
High Court of Judicature at Allahabad