2026:AHC:209204

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. BAIL APPLICATION No. - 19923 of 2026

Birendra Arakh

.....Applicant(s)

Versus

State Of U.P. And 3 Others

.....Opposite Party(s)

Counsel for Applicant(s)	:	Ranjeet Singh
Counsel for Opposite Party(s)	:	G.A.

Court No. - 64

HON'BLE VIVEK VARMA, J.

1. As per office report dated 17.8.2026, notice of the instant application has been served upon the C.W.C./opposite party no.2 personally and the informant/opposite party no.4 through heir.

2. Sri V.P. Tripathi, learned A.G.A. for the State submits that the notice of the present application has been served upon the informant/opposite party no.4 on 26.4.2026 and C.W.C./opposite party no.2 on 30.4.2026. The receiving endorsements produced by learned A.G.A. 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 and learned A.G.A. for the State. 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. 34 of 2024, under Sections 363, 366A, 376(2) I.P.C., Section 5L/6 of POCSO Act and Section 3(2)5 of SC/ST Act, Police Station- Mau, District- Chitrakoot, during the pendency of trial.

5. Counsel for the applicant submits that the applicant has been falsely implicated in the present case. The incident is alleged to have occurred on 06.01.2024, whereas the first information report was lodged on 27.01.2024. The inordinate delay in lodging the first information report is fatal to the prosecution 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. Placing reliance upon the statement of the victim recorded under Section 164 Cr.P.C. it is contended that the victim had voluntarily left her parental house and accompanied the applicant to Rajasthan. She had established a physical relationship with the applicant of her own volition, out of which, a child was subsequently born. There is no allegation of any forceful assault against the applicant. It is contended that the victim was taken by public transport to Rajasthan and she was present at public places, but she did not raise any protest or alarm. Such conduct of the victim shows that she was a consenting party. At this stage, there is no corroborative evidence to link the applicant with the offence. Criminal history of the applicant has been explained in paragraph-3 of the supplementary affidavit. The applicant is in jail since 24.8.2024 and in case he is enlarged on bail, he will not misuse the said liberty.

6. Learned A.G.A. 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 there is inordinate delay in lodging the first information report. The victim was taken by a public transport to Rajasthan and she was present at public places, but she did not raise any protest or alarm. Such conduct of the victim shows that she was a consenting party. There is no allegation of any forceful assault against the applicant. At this stage, there is no corroborative evidence to link the applicant with the offence. Moreover, the applicant has remained confined for more than two years and a month 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 **Birendra Arakh**, 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 6, 2026

Manish Kr

(Vivek Varma,J.)

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