2026:AHC:211263

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL No. - 7589 of 2026

Aamir

.....Appellant(s)

Versus

State of U.P. and Another

.....Respondent(s)

Counsel for Appellant(s)	:	Sachin Malik
Counsel for Respondent(s)	:	G.A.

Court No. - 74

HON'BLE SAMIT GOPAL, J.

1. List revised.

2. Heard Sri Sachin Malik, learned counsel for the appellant, Sri Bade Lal Bind, learned counsel for the State and perused the record.

3. Perused the order dated 23.09.2026 passed by this Court. Despite service of notice on the first informant / opposite party no.2 no one appears on her behalf even in the revised call.

4. This criminal appeal under Section 14A(2) of SC/ST (Prevention of Atrocities) Act, 1989 has been filed by the appellant Aamir with the prayer to set-aside the impugned order dated 02.07.2026 passed by Additional District and Session Judge / Special Judge (SC/ST) Act, Baghpat in Bail Application No. 995 of 2026 (Aamir Vs. State of U.P.) arising out of Case Crime No. 142 of 2026, under Sections 64(1), 351(3), 352 BNS and Section 3(2)(V) of SC/ST Act, Police Station Binauli, District Baghpat and with a further prayer to release the appellant on bail in the aforesaid case.

5. The FIR of the matter was lodged on 18.05.2026 by the opposite party no.2 alleging therein that her daughter aged about 21 years used to go daily on foot to learn computer. On 18.05.2026 at about 02:30 pm when she was returning back, on the way Aamir the appellant met her and threatened her and took her with him in a room. She then went to search for her daughter on which people of the locality told her that they have seen her daughter with Aamir. When she reached the house of Aamir she heard the cries of her daughter and then with the help of other people got the door opened and saw her daughter and Aamir in a compromising position. Her daughter then told her that Aamir has committed rape upon her. He then abused her and threatened her.

5. Learned counsel for the appellant submitted that the appellant has been falsely implicated in the present case. It is submitted that as per the FIR

itself, the victim is a major aged about 21 years. It is submitted that the victim went with the appellant to the said place without any objection or resistance. It is submitted that the victim was subjected to medical examination where the doctor gave an opinion that there is no sign of forceful penetration seen at the time of examination. It is submitted that the present case is a case of consent. It is further submitted that the victim in her statement under Section 180 BNSS has stated that she used to talk to Aamir from 22.09.2025 and thus they both were in talks since last nine months. It is submitted that the victim further stated that subsequently they started to meet each other and even went to a hotel where they meet each other. It is submitted that there is an allegation of the appellant threatening the victim on launching her objectionable photo or video but during investigation no such video or photo has been recovered by the police. It is submitted that charge sheet in the matter has been submitted which is annexure S.A.1 to the supplementary affidavit dated 27.09.2026 which is on record. The appellant has no criminal history as stated in para 17 of the bail application in appeal and is in jail since 19.05.2026.

6. Per contra, learned counsel for the State opposed the appeal and prayer for bail.

7. After having heard learned counsels for the parties and perusing the records, it is evident that the victim as per the FIR itself is a major aged about 21 years. As per the version of the victim, the victim and the appellant were friends since last nine months and they used to meet each other and even went to hotel and met each other. The investigation in the matter has concluded and charge sheet has been submitted. The medical report does not opine of any sexual assault on the victim.

8. Looking to the facts and circumstances of this case, the nature of evidence and also the absence of any convincing material to indicate the possibility of tampering with the evidence, this Court is of the view that the appellant may be enlarged on bail.

9. Let the appellant **Aamir** be released on bail in the aforesaid case crime number on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned with the following conditions which are being imposed in the interest of justice:-

i) The appellant will not tamper with prosecution evidence and will not harm or harass the victim/complainant in any manner whatsoever.

ii) The appellant will abide the orders of court, will attend the court on every date and will not delay the disposal of trial in any manner whatsoever.

(iii) The appellant shall file an undertaking to the effect that he shall not seek any adjournment on the date fixed for evidence when the witnesses

are present in court. In case of default of this condition, it shall be open for the trial court to treat it as abuse of liberty of bail and pass orders in accordance with law.

(iv) The appellant will not misuse the liberty of bail in any manner whatsoever. In case, the appellant misuses the liberty of bail during trial and in order to secure his presence proclamation under section 84 BNSS/82 Cr.P.C., may be issued and if appellant fails to appear before the court on the date fixed in such proclamation, then, the trial court shall initiate proceedings against him, in accordance with law, under section 209 BNS/174-A I.P.C.

(v) The appellant shall remain present, in person, before the trial court on dates fixed for (1) opening of the case, (2) framing of charge and (3) recording of statement under Section 251 BNSS/313 Cr.P.C. If in the opinion of the trial court absence of the appellant is deliberate or without sufficient cause, then it shall be open for the trial court to treat such default as abuse of liberty of bail and proceed against him in accordance with law and the trial court may proceed against him under Section 269 BNS/229-A IPC.

(vi) The trial court may make all possible efforts/endeavour and try to conclude the trial expeditiously after the release of the appellant.

10. The identity, status and residential proof of sureties will be verified by court concerned and in case of breach of any of the conditions mentioned above, court concerned will be at liberty to cancel the bail and send the appellant to prison.

11. Accordingly, the appeal succeeds and the same stands **allowed**.

12. The impugned order dated 02.07.2026 passed by Additional District and Session Judge / Special Judge (SC/ST) Act, Baghpat is hereby set aside.

(Samit Gopal,J.)

October 8, 2026
M. ARIF

Digitally signed by :-
MOHAMMAD ARIF
High Court of Judicature at Allahabad