2026:AHC:209297

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. BAIL APPLICATION No. - 26291 of 2026

Sunil Kumar

.....Applicant(s)

Versus

State Of U.P. And 3 Others

.....Opposite Party(s)

Counsel for Applicant(s)	:	Hardev Prajapati
Counsel for Opposite Party(s)	:	G.A.

Court No. - 64

HON'BLE VIVEK VARMA, J.

1. Learned A.G.A. submits that the notice of the instant application has been served upon the opposite party no.2/informant on 28.07.2026 and opposite party no.4/C.W.C. on 29.07.2026. 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.

2. Heard counsel for the applicant, Sri Shashank Shekhar Pandey, learned AGA for the State-opposite party. Perused the material available on record.

3. The present bail application has been filed with the prayer to enlarge the applicant on bail in Case Crime No. 920 of 2025, under Sections 137(2), 65(1) B.N.S. and Section 4(2) POCSO Act, Police Station- Kasganj, District- Kasganj, during the pendency of the trial.

4. Learned counsel for the applicant contends that the applicant has been falsely implicated in the present case. The incident is alleged to have occurred on 04.12.2025, whereas the first information report was lodged on 20.12.2025. The 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 disclosing her age and the entries made are unbelievable. The first information report does not contain any allegation of rape against the applicant. Further, the victim in her statement recorded under Section 180 B.N.S.S., stated that she had voluntarily left her house voluntarily, accompanied the applicant to Delhi. The said statement also does not contain any allegation of rape against the applicant. However, the victim in her statement recorded under Section 183 B.N.S.S. has narrated a contrary version and stated that the applicant and co-accused, Monu had

committed rape upon her. The material inconsistency between the first information report and the statement of the victim recorded under Section 180 B.N.S.S. on one hand and the statement of the victim recorded under Section 183 B.N.S.S. on the other, discredit the prosecution case. At this stage, there is no corroborative evidence to link the applicant with the offence. The applicant is in jail since 12.01.2026 having no criminal history. In case he is enlarged on bail, he will not misuse the said liberty.

5. Learned AGA has opposed the prayer for bail but could not satisfactorily dispute the aforesaid submissions from the record.

6. Having heard counsel for the parties and having perused the record this Court prima facie finds that there is inconsistency between the first information report and the statement of the victim recorded under Section 180 B.N.S.S. on one hand and statment of the victim under Section 183 B.N.S.S. on the other. At this stage there is no corroborative evidence to connect the applicant with the offence. Further, the applicant has remained confined for more than eight months and after submission of charge sheet 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 merits of the case, I am of the opinion that the applicant is entitled to be enlarged on bail.

7. Let the applicant- **Sunil Kumar,** involved in the aforesaid case crime 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;

(iii) shall not pressurize the prosecution witnesses.

8. 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 7, 2026
Abhishek

(Vivek Varma, J.)

Digitally signed by :-
ABHISHEK SINGH
High Court of Judicature at Allahabad