2026:AHC:211448

**HIGH COURT OF JUDICATURE AT ALLAHABAD**
**CRIMINAL MISC. BAIL APPLICATION No. - 28077 of 2026**

Indresh

.....Applicant(s)

Versus

State Of U.P. And 3 Others

.....Opposite Party(s)

| | | |
|---|---|---|
| Counsel for Applicant(s) | : | Dev Prakash Sharma, Priyanka Devi |
| Counsel for Opposite Party(s) | : | G.A., Satya Prakash Rathor |

**Court No. - 64**

**HON'BLE VIVEK VARMA, J.**

1. Heard counsel for the applicant and Sri Satya Prakash Rathor, learned counsel for the informant and Sri N. K. Sharma, learned AGA for the State-opposite party. Perused the material available on record.

2. The present bail application has been filed with the prayer to enlarge the applicant on bail in Case Crime No. 237 of 2026, under Sections 137(2), 70(2), 316(2), 317(2), 351(3) B.N.S. and Section 5(chha)/6 of the Protection of Children from Sexual Offences Act, 2012, Police Station- Kotwali Nagar Mahoba, District- Mahoba, during the pendency of the trial.

3. Counsel for the applicant contends that the applicant has been falsely implicated in the present case. The incident is alleged to have occurred on 22.05.2026, whereas the first information report was lodged on 26.05.2026. 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. Neither any indecent video nor any photograph of the victim has been collected by the Investigating Officer. Further, as per the statement of the victim recorded under Section 183 B.N.S.S. allegation of rape has been levelled against co-accused Sachin @ Sachchu. There are material inconsistencies between the first information report, statement of the victim recorded under Section 180 of the BNSS, on the one hand, and the statement of the victim recorded under Section 183 of the BNSS, on the other. The said material inconsistencies discredit the prosecution case. False recovery of a pair of earring of yellow metal has been shown from the applicant. There is no independent witness to the alleged recovery. At this stage, there is no

corroborative evidence to link the applicant with the offence. The applicant is in jail since 28.05.2026 having no criminal history and in case he is enlarged on bail, he will not misuse the said liberty.

4. Learned counsel for the informant and learned AGA for the State have opposed the prayer for bail but could not satisfactorily dispute the aforesaid submissions from the record.

5. Having heard counsel for the parties and having perused the record this Court prima facie finds that the first information report has been lodged belatedly. The victim in her statement recorded under Section 183 B.N.S.S. has levelled the allegation of rape against co-accused Sachin @ Sachchu. There are material inconsistencies between the first information report, statement of the victim recorded under Section 180 of the BNSS, on the one hand, and the statement of the victim recorded under Section 183 of the BNSS, on the other. There is no independent witness to the alleged recovery. At this stage, there is no corroborative evidence to link the applicant with the offence. Further the applicant has presently remained confined for more than four months 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 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.

6. Let the applicant, Indresh involved in the aforesaid case be released on bail on his furnishing a personal bond and two sureties each of the like amount to the satisfaction of court concerned on the following conditions that:

i. the applicant shall not tamper with the prosecution evidence;

ii. the applicant shall not pressurize the prosecution witness;

iii. the applicant shall appear on each and every date fixed by the trial court.

7. 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 8, 2026**
Abhishek

**(Vivek Varma,J.)**

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