2026:AHC:208243

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. BAIL APPLICATION No. - 28003 of 2026

Vikas Kumar

.....Applicant(s)

Versus

State Of U.P. And 3 Others

.....Opposite Party(s)

Counsel for Applicant(s) : Ankit Kumar Dubey, Ashutosh Kumar Shukla

Counsel for Opposite Party(s) : G.A.

Court No. - 64

HON'BLE VIVEK VARMA, J.

1. Sri S.S. Pandey, learned AGA for the State on the basis of the instructions submits that notice of the present application has been served upon the informant as well as C.W.C. on 5.8.2026.

2. However, no one appears on behalf of the said opposite parties nor any counter affidavit has been filed on their behalf.

3. Heard learned counsel for the applicant, Sri Anupam Anand, learned Brief Holder for the State and perused the record.

4. The present bail application has been filed with a prayer to enlarge the applicant on bail in Case Crime No. 244 of 2026, under Sections 137(2), 87, 65(2), 96 and 143 B.N.S., and Section 5L/6 of POCSO Act, Police Station- Kasaya, District- Kushinagar during pendency of the trial.

5. Counsel for the applicant submits that the applicant was not named in the first information report and has been falsely implicated in the present case. The incident is alleged to have occurred on 22.4.2026, whereas the first information report was lodged on 28.4.2026 under Section 137(2), 87 B.N.S. The delay in lodging the first information report is fatal to the prosecution case. The first information report was lodged on the basis of information furnished by the victim. It does not contain any allegations against the applicant. The name of the applicant was subsequently disclosed by the victim in her statements recorded under Sections 180 and 183 B.N.S.S. The

inconsistency between the first information report and the statements of the victim recorded under Sections 180 and 183 B.N.S.S. discredits the prosecution case at this stage. It is contended that 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. As per the report of Chief Medical Officer dated 6.5.2026 the victim was found approximately 16 years. The range of error in determining the age is about two years and the same should be read in favour of the applicant at this stage. It is next contended that the victim was present at various public places but she did not raise any alarm or protest. Such conduct of the victim shows that she was a consenting party. As per the medical report dated 2.5.2026 no external injury was found on the body of the victim. False recovery of a mobile phone, a wallet and Indian currency of 1700/- 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 30.4.2026 having no criminal history. In case he is enlarged on bail, he will not misuse the said liberty.

5. Learned Brief Holder for the State 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 the applicant was not named in the first information report. The first information report has been lodged belatedly. There are inconsistencies between the first information report and the statements of the victim recorded under Sections 180 and 183 B.N.S.S. The victim was present at various public places but she did not raise any alarm or protest. As per the medical report dated 2.5.2026 no external injury was found on the body of the victim. 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 has no criminal antecedents. Further, the applicant has presently remained confined for more than five 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.

7. Let the applicant, Vikas Kumar 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.

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.

(Vivek Varma,J.)

October 6, 2026
S.S.

Digitally signed by :-
SIDDHARTH SRIVASTAVA
High Court of Judicature at Allahabad