2026:AHC:211686

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. BAIL APPLICATION No. - 29149 of 2026

Samoon

.....Applicant(s)

Versus

State of U.P.

.....Opposite Party(s)

Counsel for Applicant(s)	:	Jagdish Prasad Mishra
Counsel for Opposite Party(s)	:	G.A., Nafees Ahmad

Court No. - 64

HON'BLE VIVEK VARMA, J.

1. Heard learned counsel for the applicant, Sri Nafees Ahmad, learned counsel for the informant and Sri N. K. Sharma, learned A.G.A. for the State and perused the record.

2. The present bail application has been filed with the prayer to enlarge the applicant on bail in Case Crime No. 233 of 2026, under Sections 69, 351(3) B.N.S., Police Station- Kotwali Nagar, District- Muzaffarnagar, during the pendency of the trial.

3. Counsel for the applicant contends that the applicant has been falsely implicated in the present case. The first information report has been lodged belatedly. Placing reliance upon the statement of the victim recorded under Section 183 B.N.S.S., it is contended that the victim was having a five year old child. She was not in a position to marry the applicant. It is next contended that the applicant and the victim were in consensual relationship for a considerable period of time. The consensual relationship which if continued between the parties for considerable period of time could not be said to have continued under the 'misconception of fact' under Section 28 of the B.N.S. and could not be said to be 'sexual intercourse by employing deceitful means' under Section 69 of B.N.S. The applicant never made any promise to marry the victim. Neither any indecent video nor any obscene photograph of the victim has been collected by the investigating officer. At this stage, there is no corroborative evidence to link the applicant with the offence. The applicant is in jail since 02.07.2026 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 victim and the applicant were in consensual relationship for a considerable period of time. Neither any indecent video nor any obscene photograph of the victim has been collected by the investigating officer. At this state, there is no corroborative evidence to link the applicant with the offence. Further, the applicant has no criminal antecedents and has remained confined for more than three 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.

6. Let the applicant, **Samoon** 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