2026:AHC:210918

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. BAIL APPLICATION No. - 29101 of 2026

Gulshan Yadav

.....Applicant(s)

Versus

State Of U.P. And 3 Others

.....Opposite Party(s)

Counsel for Applicant(s)	:	M.J. Akhtar
Counsel for Opposite Party(s)	:	G.A.

Court No. - 64

HON'BLE VIVEK VARMA, J.

1. Sri Nagendra Kumar Mishra, learned Brief Holder for the State submits that the notice of the present application has been served upon the informant/opposite party no.2 on 10.8.2026 and C.W.C./opposite party no.4 on 17.8.2026. 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 and learned Brief Holder for the State. Perused the material available on record.

3. The present bail application has been filed with a prayer to enlarge the applicant on bail in Case Crime No. 293 of 2026, under Sections 137(2), 87, 64(1) B.N.S. and Section 3/4 of POCSO Act, Police Station- Cant., District- Gorakhpur, during the pendency of trial.

4. Counsel for the applicant contends that the applicant has been falsely implicated in the present 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. Further, the victim in her statement recorded under Section 180 B.N.S.S. stated that she had voluntarily left her house and accompanied the applicant to Banaras, thereafter to

Ludhiana and returned back to Kushinagar. She further stated that at Kushinagar, Padrauna she solemnized marriage with the applicant, both started living as husband and wife and established physical relations. There is no allegation of any forceful assault against the applicant. However, the victim in her statement recorded under Section 183 B.N.S.S. has narrated a contrary version. The material inconsistencies between the statements of the victim recorded under Section 180 and 183 B.N.S.S. discredit the prosecution case at this stage. It is next contended that the victim was present at various public places, but she did not raise any protest or alarm. Such conduct of the victim shows that she was a consenting party. At this stage, there is no corroborative evidence to link the applicant with the offence. Criminal history of the applicant has been explained in paragraph-2 of the supplementary affidavit. The applicant is in jail since 28.6.2026 and in case he is enlarged on bail, he will not misuse the said liberty.

5. Learned Brief Holder for the State 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 are material inconsistencies between the statements of the victim recorded under Section 180 and 183 B.N.S.S., which discredits the prosecution. The victim had accompanied the applicant to public places, but she did not raise any protest or alarm. At this stage, there is no corroborative evidence to link the applicant with the offence. Moreover, the applicant has remained confined for more than three months and after submission of the 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 the merits of the case, I am of the opinion that the applicant is entitled to be enlarged on bail.

7. Let the applicant **Gulshan Yadav**, involved in the aforesaid

case 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; and,

(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 8, 2026

Manish Kr

(Vivek Varma,J.)

Digitally signed by :-
MANISH KUMAR
High Court of Judicature at Allahabad