HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. BAIL APPLICATION No. - 29868 of 2026

Vivek

.....Applicant(s)

Versus

State Of U.P. And 3 Others

.....Opposite Party(s)

Counsel for Applicant(s)	:	Abrendra Patel, Vivek Kumar Singh
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.4/informant and opposite party no.3/C.W.C. on 20.08.2026. 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 Sri Anupam Anand, learned Brief Holder 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. 224 of 2026, under Sections 65(1) B.N.S. and Section 3/4 POCSO Act, Police Station- Ramkola, District-Kushinagar, 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 victim is a major. As per the report of the Chief Medical Officer, Kushinagar dated 27.05.2026, the victim was found approximately 17 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 first information report does not contain any allegation of rape against the applicant. Further, the victim, in her statements recorded under Sections 180 and 183 B.N.S.S., stated that the applicant had committed rape upon her. The material inconsistency between the first information report on one hand and the statements of the victim recorded under Sections 180 and 183 B.N.S.S. on the other, discredit the prosecution case, at this stage. As per the medical examination report, no external injury was found on the body of the victim. At this stage, there is no corroborative evidence to link the applicant with the offence. The applicant is in jail since 19.05.2026 having no criminal history 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 is inconsistency between the first information report and the statements of the victim recorded under Sections 180 B.N.S.S. and 183 B.N.S.S. As per the medical report, no external injury was found on the body of the victim. At this stage there is no corroborative evidence to connect the applicant with the offence. Further, the applicant has remained confined for more than five 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 **Vivek,** 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 24, 2026
Abhishek

(Vivek Varma,J.)

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