2026:AHC:210191

HIGH COURT OF JUDICATURE AT ALLAHABAD
CRIMINAL MISC. BAIL APPLICATION No. - 30145 of 2026

Suraj Kushwaha

.....Applicant(s)

Versus

State Of Up And 3 Others

.....Opposite Party(s)

Counsel for Applicant(s)	:	Kamlesh Kumar Tiwari, Swati Tiwari
Counsel for Opposite Party(s)	:	Abhineet Shukla, Aditya Kumar Kashyap, G.A., Sunil Kumar Singh

---

Court No. - 64

HON'BLE VIVEK VARMA, J.

1. Copy of report of the C.M.O. dated 13.7.2026 and pathology lab report of Autonomous State Medical College Kushinagar attached District Combined Hospital Kushinagar bearing reference No. reg/ref992052600953091/344841, produced by Sri V.P. Tripathi, learned A.G.A. are taken on record.

2. Heard Ms. Swati Tiwari, counsel for the applicant and Sri Aditya Kumar Kashyap, counsel for the informant as well as learned A.G.A. 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. 238 of 2026, under Sections 137(2), 64 B.N.S. and Section 3/4 of POCSO Act, Police Station- Nebua Naurangiya, District- Kushinagar, during the pendency of trial.

4. Counsel for the applicant contends that the applicant has been falsely implicated in the present case. The incident is alleged to have occurred on 04.07.2026, whereas the first information report was lodged on 08.07.2026. The delay in lodging the first information report is fatal to the prosecution case. The victim is a major. As per the report of C.M.O. dated 13.7.2026, the victim was found aged about 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. Placing reliance upon the statements of the victim recorded under Section 180 B.N.S.S. and 183 B.N.S.S., it is contended that the victim established relations with the applicant voluntarily. There is no allegation of any forceful assault against the applicant. Further, as per pathology lab

report of the Medical College, Kushinagar bearing reference No. reg/ref992052600953091/344841, the pregnancy report was negative. At this stage, there is no corroborative evidence to link the applicant with the offence. The applicant is in jail since 10.07.2026 having no criminal antecedents and in case he is enlarged on bail, he will not misuse the said liberty.

5. Learned A.G.A. 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 the first information report has been lodged belatedly. As per the statements of the victim recorded under Section 180 B.N.S.S. and 183 B.N.S.S., she established relations with the applicant voluntarily. There is no allegation of any forceful assault against the applicant. At this stage, there is no corroborative evidence to link the applicant with the offence. Moreover, the applicant has no criminal antecedents and has remained confined for almost 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 **Suraj Kushwaha**, 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 7, 2026

Manish Kr

(Vivek Varma,J.)

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