2026:AHC:210466

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. BAIL APPLICATION No. - 29979 of 2026

Aditya Kushwaha @ Bholu

.....Applicant(s)

Versus

State Of U.P. And 3 Others

.....Opposite Party(s)

Counsel for Applicant(s)	:	Aamir Nizam, Shabana Nizam
Counsel for Opposite Party(s)	:	Ashutosh Tiwari, G.A.

Court No. - 64

HON'BLE VIVEK VARMA, J.

1. Heard learned counsel for the applicant, Sri V.P. Tripathi, learned A.G.A. for the State-opposite party, and Sri Sanjay Singh, Advocate holding brief of Sri Ashutosh Tiwari, learned counsel for the informant.

2. The present bail application has been filed with the prayer to enlarge the applicant on bail in Case Crime No. 51 of 2026, under Sections 65(1), 126(2), 352, 351(3), 296 B.N.S. and 3/4 POCSO Act, Police Station Rampur Manjha, District Ghazipur during the pendency of the trial.

3. Learned counsel for the applicant submits 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 disclosing her age and the entries made are unbelievable. It is next contended that the first information report and the statement of the victim recorded under Section 180 B.N.S.S. do not contain any allegation of rape against the applicant. However, the victim in her statement recorded under Section 183 B.N.S.S. has stated that the applicant had committed rape upon her. The material inconsistencies in the first information report and the statement of the victim under Section 180 B.N.S.S. on one hand and the statement of the victim under Section 183 B.N.S.S. on the other discredit the prosecution case. The criminal history of the applicant has been explained in Paragraph- 2 of the supplementary affidavit. The applicant is in jail since 05.07.2026 and if he is released on bail, he will not misuse the said liberty.

4. Learned A.G.A. and learned counsel for the informant have opposed the prayer for bail but could not satisfactorily dispute the aforesaid submissions from the record.

5. Having heard learned counsel for the parties and after perusal of the record, this Court prima facie finds that there are material inconsistencies in the first information report and the statement of the victim under Section 180 B.N.S.S. on one hand and the statement of the victim under Section 183 B.N.S.S. on the other. Moreover, the applicant has remained confined for more than two months and after submission of the charge-sheet there is no hope of early conclusion of trial, and 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, therefore, without commenting on the merits of the case, I am of the opinion that the applicant is entitled to be enlarged on bail.

6. Let the applicant- Aditya Kushwaha @ Bholu, involved in the aforesaid case, be released on bail on his furnishing a personal bond and two sureties each in the like amount to the satisfaction of 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.

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 7, 2026
SKT/-

(Vivek Varma,J.)

Digitally signed by :-
SHIVA KANT TIWARI
High Court of Judicature at Allahabad