2026:AHC:210274

HIGH COURT OF JUDICATURE AT ALLAHABAD
CRIMINAL MISC. BAIL APPLICATION No. - 30380 of 2026

Bholu Paswan

.....Applicant(s)

Versus

State Of U.P. And 3 Others

.....Opposite Party(s)

Counsel for Applicant(s)	:	Arurit Kumar, Vinay Kumar Singh
Counsel for Opposite Party(s)	:	G.A.

Court No. - 64

HON'BLE VIVEK VARMA, J.

1. Sri Neeraj Kumar Sharma, learned A.G.A. submits that the notice of the present application has been served upon the informant/opposite party no.2 on 25.8.2026 and C.W.C./opposite party no.3 on 29.8.2026. 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, learned A.G.A. for the State and 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. 415 of 2026, under Sections 137(2), 87, 70(2) B.N.S. and Section 5(G)/6 of POCSO Act, Police Station- Jhangaha, District- Gorakhpur, during the pendency of trial.

4. Counsel for the applicant contends that the applicant was not named in the first information report and has been falsely implicated in the present case. The incident is alleged to have occurred on 20.7.2026, whereas the first information report was lodged on 22.7.2026. The delay in lodging the first information report is fatal to the prosecution 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. did not make any allegation of rape against the applicant. However, in her statement recorded under Section 183 B.N.S.S. the victim stated that the applicant committed rape upon her. It is contended that the inconsistencies in the aforesaid statements of the victim discredit the prosecution case at this stage. The victim was present at 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. The applicant is in jail since 24.7.2026 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 applicant was not named in the first information report. The first information report has been lodged belatedly. There are inconsistencies in the statements of the victim recorded under Section 180 B.N.S.S. and 183 B.N.S.S. The victim was present at 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. Moreover, the applicant has no criminal antecedents and has remained confined for more than two months and 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 **Bholu Paswan**, 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