2026:AHC:211121

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. BAIL APPLICATION No. - 31472 of 2026

Dileep

.....Applicant(s)

Versus

State Of U.P. And 3 Others

.....Opposite Party(s)

Counsel for Applicant(s)	:	Rajesh Kumar Pal
Counsel for Opposite Party(s)	:	G.A., Vineet Kumar Yadav

Court No. - 67

HON'BLE JITENDRA KUMAR SINHA, J.

1. List revised. Heard Sri Pradeep Srivastava, holding brief of Sri Rajesh Kumar Pal, learned counsel for the applicant and Sri B.P. Singh, learned A.G.A. for the State and Sri Vineet Kumar Yadav, learned counsel for the first informant.

2. The instant bail application has been filed with a prayer to release the applicant on bail in Case Crime No. 455 of 2026, under Sections 137(2), 65(1), 352, 351(3) BNS and Section 3/4 of POCSO Act, Police Station Kosikalan, District Mathura during the pendency of the trial.

3. It is contended by the learned counsel for the applicant that the applicant has been falsely implicated in the present case and there are material contradictions in the statement of the victim recorded under Sections 180 and 183 BNSS. It is further submitted that the age of the victim has been mentioned in the FIR as 13 years and the victim herself stated that she is aged about 12 years, whereas the age of the victim has been found to be 11 years as per her certificate of Class 4th, however, there is no High School certificate or the certificate of school first attended and no radio-logical examination of the victim has been conducted for her age determination. It is further submitted that the medico-legal report as well as the FSL report of the victim does not support the commission of rape on her. It is further submitted that the brother

of the applicant has filed an application before the SSP showing that on the alleged date and time the applicant was present in the shop and the same has been certified by the owner of the shop. It is also submitted that the applicant has been languishing in jail since 8.7.2026 and he is having no criminal history. It is lastly submitted that in case the applicant is granted bail, he will not misuse the liberty of bail and would cooperate in the trial proceedings.

4. Per contra, learned counsel for the first informant and learned A.G.A. have vehemently opposed the prayer for bail but could not dispute the aforesaid facts, however, it is submitted that the victim in her statement recorded under Sections 180 and 183 BNSS has stated that the applicant committed rape on her.

5. FIR has been filed after a delay of three days and as per the allegation in the FIR, the applicant is said to have committed rape on the victim aged about 13 years, however, there appears to be material contradictions in the statement of the victim recorded under Sections 180 and 183 BNSS. The victim herself stated that she is aged about 12 years whereas the age of the victim has been found to be 11 years as per her certificate of Class 4th, however, there is no High School certificate or the certificate of school first attended and no radio-logical examination of the victim has been conducted for her age determination. The medico-legal report as well as the FSL report of the victim does not support the commission of rape on her. The applicant has been languishing in jail since 8.7.2026 and he is having no criminal history.

6. Considering the entire facts and circumstances of the case, submissions of learned counsel for the parties and keeping in view the nature of offence, evidence, complicity of the accused and taking into account overcrowded jails and heavy pendency of criminal cases before the trial courts as well as considering the mandate of the judgement of the Apex Court in the case of ***Kapil Wadhawan vs Central Bureau of Investigation*** reported in 2025 SCC OnLine SC 3038 as well as guideline of this Court in the case

of ***Maya Tiwari Vs. State of U.P.*** reported in 2024 SCC Online All 6765 regarding grant of bail and without expressing any opinion on the merits of the case, I am of the opinion that the applicant is entitled to be enlarged on bail.

7. Accordingly, the present application is **ALLOWED**.

8. Let the applicant- **Dileep** involved in the aforementioned crime be released on bail, on his furnishing a personal bond and two sureties each in the like amount, to the satisfaction of the court concerned, with the following conditions:-

(i) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence.

(ii) The applicant shall cooperate in the trial/investigation sincerely without seeking any adjournment.

(iii) The applicant shall not indulge in any criminal activity or commission of any crime after being released on bail.

(iv) The applicant shall attend in accordance with the conditions of the bond executed by him.

9. In case of breach of any of the above conditions, it shall be a ground for cancellation of bail.

10. Identity, status and residence proof of the applicant and sureties be verified by the court concerned before the bonds are accepted. Verification of mobile number and Aadhaar card of the applicant as well as sureties should be verified by the court concerned.

11. It is further directed that the trial court shall send the release order to the concerned jail through Bail Order Management System (BOMS) to ensure early release of the applicant.

12. Office is directed to send a copy of this order to the applicant through **concerned Jail Superintendent** via e-mail or e-prison portal within 24 hours in compliance of the order of the Apex Court in the case of **Policy Strategy for Grant of Bail, In Re: Suo Motu Writ Petition (Crl.) No.4 of 2021 decided on 31.01.2023** reported in (2024) 10 SCC 685.

October 8, 2026
Abhishek

(Jitendra Kumar Sinha,J.)

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