2026:AHC:209374

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. BAIL APPLICATION No. - 31419 of 2026

Kaushal Kumar

.....Applicant(s)

Versus

State Of U.P. And 3 Others

.....Opposite Party(s)

Counsel for Applicant(s) : Vijay Kannaujiya, Virendra Singh
Counsel for Opposite Party(s) : G.A.

Court No. - 67

HON'BLE JITENDRA KUMAR SINHA, J.

1. Heard Shri Virendra Singh learned counsel for the applicant and Shri Ashish Kumar Tripathi, learned A.G.A. for the State and perused the record. At the very outset, learned AGA submits that the notice has been served on the first informant.

2. The instant bail application has been filed with a prayer to release the applicant on bail in Case Crime No. 93 of 2026, under Sections 65(1), 62 of B.N.S. and Section 5N/6/18 of POCSO Act, Police Station Mardah, District Ghazipur, during the pendency of the trial.

3. Learned counsel for the applicant has submitted that the applicant has been falsely implicated in the present case due to some property dispute and the applicant is the younger brother-in-law of the first informant and uncle of the victim. It is further submitted that the age of the victim has been found to be 12-14 years as per ossification test and the age of the victim has been found to be 11 years and 3 months as per school records of Class V, however, there is no certificate of high school or certificate of school first attended, therefore, the radio-logical age shall prevail. It is further submitted that the medico legal report does not support the allegation of commission rape on her. It is further submitted that the applicant is having no criminal history and the applicant has been languishing in jail since 29.05.2026, in case, he is granted bail, he will not misuse the liberty of bail and would cooperate in the trial proceedings.

4. Per contra, learned A.G.A. has vehemently opposed the prayer for bail

and it has been submitted by him that the victim is a minor girl aged about 12-14 years as per ossification test and the age of the victim has been found to be 11 years and 3 months as per school records of Class V.

5. As per first information report, the applicant is said to have committed rape on the victim aged about 12 years and it is submitted that the applicant has been falsely implicated in this case due to some property dispute and the applicant is the younger brother-in-law of the first informant and uncle of the victim. It is further submitted that the age of the victim has been found to be 12-14 years as per ossification test and the age of the victim has been found to be 11 years and 3 months as per school records of Class V, however, there is no certificate of high school or certificate of school first attended, therefore, the radio-logical age shall prevail. It is further submitted that the medico legal report does not support the allegation of commission rape on her. It is further submitted that the applicant is having no criminal history and the applicant has been languishing in jail since 29.05.2026.

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- **Kaushal Kumar** 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 **Jail Superintendent**, Ghazipur 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.

(Jitendra Kumar Sinha,J.)

October 7, 2026
RKM

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