2026:AHC:210219

# HIGH COURT OF JUDICATURE AT ALLAHABAD

## CRIMINAL MISC. BAIL APPLICATION No. - 31491 of 2026

Ashwani @ Kamal

.....Applicant(s)

Versus

State Of U.P. And 3 Others

.....Opposite Party(s)

| | | |
|---|---|---|
| Counsel for Applicant(s) | : | Sunil Kumar Dubey |
| Counsel for Opposite Party(s) | : | G.A., Vikas Sharma |

**Court No. - 67**

**HON'BLE JITENDRA KUMAR SINHA, J.**

**1.** Heard Sri Sunil Kumar Dubey, learned counsel for the applicant, Sri Vikash Sharma, learned counsel for the first informant, Sri Uma Shankar Mishra, learned AGA for the State-respondents and perused the record.

**2.** The present bail application under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, has been filed on behalf of applicant with a prayer to release him on bail in Case Crime No. 326 of 2026 under Sections 64(1) and 351 BNS and 3/4 POCSO Act registered at Police Station Baraut, District Baghpat during pendency of the trial.

**3.** At the very outset, learned A.G.A. states that notice has been served upon the first informant.

**4.** It is contended by learned counsel for the applicant that applicant has been falsely implicated in the present case and medico-legal report of the victim does not support commission of rape on her though it has been conducted promptly on the same day of the alleged incident. It is further submitted that age of the victim has been found to be 15 years 8 months as per certificate of High School. It is also submitted that applicant, who has no criminal history, has been languishing in jail since 18.5.2026. It is lastly submitted that in case applicant is granted bail, he will not misuse the liberty of bail and would cooperate in the trial proceedings.

**5.** On the other hand, learned A.G.A. as well as learned counsel for the first informant opposed the prayer for grant of bail to the applicant and submit

that victim is a minor girl aged about 15 years 8 months as per certificate of High School.

**6.** As per the FIR, applicant is said to have committed rape on the victim aged about 18 years. However, victim has been found to be 15 years 8 months as per certificate of High School and her medico-legal report does not support commission of rape on her though it was conducted on the same day of the alleged incident. Applicant, who has no criminal history, has been languishing in jail since 18.5.2026.

**7.** 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.

**8.** Let the applicant **Ashwani @ Kamal** 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.***

**(Jitendra Kumar Sinha,J.)**

**October 7, 2026**
Madhurima

Digitally signed by :-
MADHURIMA GARG
High Court of Judicature at Allahabad