HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. BAIL APPLICATION No. - 32115 of 2026

Bittu

.....Applicant(s)

Versus

State Of U.P. And 3 Others

.....Opposite Party(s)

Counsel for Applicant(s)	:	Madhukar Maurya, Mohd Zubair Khan
Counsel for Opposite Party(s)	:	Dhirendra Kumar Srivastav, G.A.

Court No. - 65

HON'BLE SAMEER JAIN, J.

1. Heard Sri Mohd. Zubair Khan, learned counsel for the applicant, Sri Dhirendra Kumar Srivastava, learned counsel for informant and Sri Imran Khan, learned AGA for the State.

2. The instant bail application has been filed seeking release of the applicant on bail in Case Crime No. 64 of 2026, under Sections 70(2) BNS and Section 5G/6 POCSO Act, Police Station Janakpuri, District Saharanpur during pendency of the trial.

3. Learned counsel for the applicant submits, applicant was neither named in the FIR nor victim disclosed his name in her statement recorded under Section 180 BNSS but subsequently when her statement under Section 183 BNSS was recorded then first time she disclosed the name of applicant.

4. He further submits, co-accused Amit was also made accused during investigation in the similar fashion like applicant and he has been released on bail by the co-ordinate Bench of this Court vide order dated 28.07.2026 passed in Criminal Misc. Bail Application No. 19906 of 2026 and case of applicant is at par with him.

5. He further submits, applicant is not having criminal history and in the present matter he is in jail since 04.05.2026.

6. Per contra, learned AGA as well as learned counsel for informant opposed the prayer for bail but could not dispute the argument on facts advanced by learned counsel for the applicant.

7. I have heard learned counsel for the parties and perused the record of the case.

8. However, it appears to be a case of gang rape and victim appears to be below 18 years of age but applicant was not named in the FIR and even victim in her statement recorded under Section 180 BNSS did not disclose his name. It reflects, subsequently when her statement under Section 183 BNSS was recorded then she disclosed the name of applicant.

9. Further, co-accused Amit who was also not named in the FIR and he has also made accused during investigation with similar allegation has been released on bail by the co-ordinate Bench of this Court and case of applicant is at par with him.

10. The Apex Court in the case of ***Satender Kumar Antil Vs. CBI & another (2022) 10 SCC 51*** in paragraph no. 98 has observed that:-

"Uniformity and certainty in the decisions of the court are the foundations of judicial dispensation. Persons accused with same offence shall never be treated differently either by the same court or by the same or different courts. Such an action though by an exercise of discretion despite being a judicial one would be a grave affront to Articles 14 and 15 of the Constitution of India."

11. Further, applicant is not having criminal history and in the present matter he is in jail since 04.05.2026.

12. Therefore, considering the facts and circumstances of the case discussed above, in my view, applicant is entitled to be released on bail.

13. Accordingly, without expressing any opinion on the merits of the case, the instant bail application is **allowed**.

14. Let the applicant - Bittu be released on bail in the aforesaid case on 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 appear before the trial court on the dates fixed, unless his personal presence is exempted.

(ii) The applicant shall not directly or indirectly, make 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 any police officer or tamper

with the evidence.

(iii) The applicant shall not indulge in any criminal and anti-social activity.

15. In case of breach of any of the above condition, the prosecution will be at liberty to move an application before this Court for cancellation of the bail of the applicant.

16. It is clarified that the observations made herein are limited to the facts brought in by the parties pertaining to the disposal of bail application and the said observations shall have no bearing on the merits of the case during trial.

October 27, 2026
AK Pandey

(Sameer Jain,J.)

Digitally signed by :-
ANUPAM KUMAR PANDEY
High Court of Judicature at Allahabad