2026:AHC:209922

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. BAIL APPLICATION No. - 32694 of 2026

Krishna @ Kale

.....Applicant(s)

Versus

State Of U.P. And 3 Others

.....Opposite Party(s)

Counsel for Applicant(s)	:	Himanshu Mishra
Counsel for Opposite Party(s)	:	G.A.

Court No. - 67

HON'BLE JITENDRA KUMAR SINHA, J.

1. Heard Sri Himanshu Mishra, learned counsel for the applicant and Sri Shiv Dutt Shukla, learned A.G.A. for the State and perused the record.

2. The instant bail application has been filed with a prayer to release the applicant on bail in Case Crime No. 263 of 2026, under Sections 137(2), 70(2), 351(3) of BNS and Section 3/4 of POCSO Act, Police Station Vrindavan, District Mathura, during the pendency of the trial.

3. At the very outset, learned AGA submits that notice has been served on the first informant.

4. It is contended by the learned counsel for the applicant that the applicant has been falsely implicated in the present case and similarly placed co-accused Sameer has already been granted bail by this Court vide order dated 14.8.2026 passed in Criminal Misc. Bail Application No. 27509 of 2026. It is next submitted that there are material contradictions in the statements of both the victims recorded under Sections 180 and 183 BNSS as the first victim in her statement under Section 180 BNSS has stated that the applicant and two other co-accused committed rape on her in a hotel whereas the second victim in her statement under Section 180 she has stated that she stood outside the room and thereafter both the victims were taken to Agra and Delhi and thereafter both of them returned to their home at Mathura whereas the first victim in her statement under Section 183 has stated that the applicant and other co-accused committed rape on her as well as on second victim whereas the second victim in her statement under Section 183 BNSS has stated that the applicant and other co-accused committed rape on them. It is further submitted that there is no reliable documentary evidence regarding age of the victims as date of birth of the first and second victim is 7.1.2010 and 5.9.2011 respectively, however, it is not clear as to on what basis the said date of birth

has been recorded by the school and therefore, the age of both the victim have not been properly ascertained. It is further submitted that no radio-logical examination has been conducted on both the victims. It is also submitted that the medico-legal reports of both the victims do not support the commission of rape on them. It is also submitted that the applicant has been languishing in jail since 4.5.2026 and he is having no criminal history, however a case under the gangster act subsequent to the present case has been lodged against him. 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.

5. Per contra, learned A.G.A. has vehemently opposed the prayer for bail but could not dispute the aforesaid facts, however, it is submitted that both the victims are minor girl and they in their statement recorded under Section 183 BNSS have supported the allegations of commission of rape on her.

6. FIR has been lodged against unknown alleging therein that the daughters of the first informant aged about 17 and 15 years had gone missing on 30.4.2026, however, the victims are said to have returned back home on 1.5.2026, however, there appears to be material contradictions in the statements of both the victims recorded under Sections 180 and 183 BNSS and their medico-legal reports do not support the commission of rape on them. There is no reliable documentary evidence regarding the age of both the victims whereas date of birth of the first and second victim is 7.1.2010 and 5.9.2011 respectively, however, on what basis the said date of birth has been recorded is not mentioned and no radio-logical examination has been conducted on both the victims. similarly placed co-accused Sameer has already been granted bail by this Court vide order dated 14.8.2026 passed in Criminal Misc. Bail Application No. 27509 of 2026. The applicant has been languishing in jail since 4.5.2026 and he is having no criminal history.

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. Accordingly, the present application is ALLOWED.

9. Let the applicant- **Krishna @ Kale** 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.

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

11. 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.

12. 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.

13. 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 7, 2026
Abhishek

(Jitendra Kumar Sinha,J.)

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