HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. BAIL APPLICATION No. - 32668 of 2026

Vivek Kumar

.....Applicant(s)

Versus

State of U.P.

.....Opposite Party(s)

Counsel for Applicant(s)	:	Ashutosh Kumar Srivastava
Counsel for Opposite Party(s)	:	G.A., Tabish Yusufi, Zia Uddin

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Court No. - 65

HON'BLE SAMEER JAIN, J.

1. Counter affidavit filed by the informant is taken on record.

2. Heard Sri Sanjay Srivastava, advocate holding brief of Sri Ashutosh Kumar Srivastava, learned counsel for the applicant, Sri Zia Uddin, learned counsel for the informant and Sri Shatruhan Yadav, learned AGA for the State.

3. The instant bail application has been filed seeking release of the applicant on bail in Case Crime No.810 of 2026, under Sections 64(1), 115(2), 351(3) BNS, Police Station Majhola, District Moradabad, during pendency of the trial.

4. Learned counsel for the applicant submits, however applicant is named in the FIR and FIR of the present case was lodged by the victim herself and in the FIR and in her both the statements recorded under Sections 180 and 183 BNSS however victim stated that applicant under the false promise of marriage sexually exploited her and even prepared her obscene video and photographs but entire allegations levelled against the applicant are totally false.

5. He next submits, admittedly victim is major lady aged about 30 years and from the material available on record prima facie she appears to be

consenting party. He further submits, actually applicant and victim both were in a consensual relationship but subsequently some dispute arose between both of them and thereafter she lodged FIR of the present case.

6. He further submits, however there is allegation that applicant also prepared obscene video and photographs of the victim but during investigation the alleged obscene video and photographs could not be recovered and there is no allegation that applicant made them viral.

7. He further argued, however apart from the present case applicant is having criminal history of two other cases but both the cases were of minor nature and both the cases were lodged by the victim herself.

8. He further submits, in the present matter applicant is in jail since 31.07.2026 i.e. for last three months.

9. Per contra, learned AGA as well as learned counsel for the informant opposed the prayer for bail and submit, applicant under the false promise of marriage sexually exploited the victim and he is even in jail only since 31.07.2026, therefore instant bail application may be dismissed.

10. I have heard both the parties and perused the record of the case.

11. However, FIR of the present case was lodged by the victim herself and victim in the FIR as well as in her both the statements recorded during investigation stated that applicant under the false promise of marriage sexually exploited her and even prepared her obscene videos and photographs and also blackmailed her but victim is admittedly major lady aged about 30 years and she prima facie appears to be consenting party. Further, even the story narrated by her prima facie does not appear to be convincing. Considering the overall facts and circumstances of the case, the argument advanced by learned counsel for the applicant that applicant and victim were in consensual relationship and subsequently when

dispute arose between them then FIR of the present case was lodged by the victim cannot be ruled out at this stage.

12. Further, even admittedly the alleged obscene videos and photographs of the victim could not be recovered during investigation and even there is no allegation that applicant ever made them viral.

13. Further, however apart from the present case applicant is having criminal history of two other cases but both the cases were of minor nature and even both the cases were lodged by the victim herself and his criminal history has been explained.

14. Further, in the present matter applicant is in jail since 31.07.2026 i.e. for last three months.

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

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

17. Let the applicant - **Vivek Kumar** 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.

18. 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.

19. 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.

(Sameer Jain,J.)

October 29, 2026
Shahroz

Digitally signed by :-
SHAHROJ ALAM
High Court of Judicature at Allahabad