HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. BAIL APPLICATION No. - 33575 of 2026

Atul

.....Applicant(s)

Versus

State Of U.P. And 3 Others

.....Opposite Party(s)

Counsel for Applicant(s) : Aanya Verma, Alok Saxena, Indra Raj
Counsel for Opposite Party(s) : Devesh Kumar Sharma, G.A.

Court No. - 67

HON'BLE JITENDRA KUMAR SINHA, J.

1. Heard Sri Alok Saxena along with Sri Indra Raj and Ms. Divyanjali, learned counsel for the applicant, Sri Devesh Kumar Sharma, learned counsel for the first informant, Sri O.P. Singh, 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. 44 of 2026 under Sections 70(2), 115(2), 127(2), 351(3) BNS, 5G/6 POCSO Act registered at Police Station Jagner, District Agra during pendency of the trial.

3. It is contended by learned counsel for the applicant that applicant has been falsely implicated in the present case and similarly placed co-accused Ankit has already been granted bail by this Court. It is further submitted that as per the FIR, applicant is said to have committed rape on the victim whereas she has stated in her statements recorded under sections 180 and 183 BNSS that applicant and three other co-accused persons committed gang rape on her. It is further submitted that victim is aged about 16 years as per her ossification test and around 13 years 7 months as per her certificate of Class VIIIth, however, there is no High School certificate or certificate of school first attended, therefore, radio-logical age of the victim shall prevail. It is further submitted that medico-legal report of the victim does not support commission of rape on her. It is also submitted that applicant, who has no criminal history, has been languishing in jail since 09.5.2026. 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.

4. 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 applicant is named in the FIR whereas co-accused Ankit, who has been granted bail, is not named in the FIR, therefore, case of the applicant is distinguished from the case of co-accused Ankit. It is further submitted that victim has specifically stated that applicant assaulted her after commission of gang rape by applicant and other accused persons.

5. As per the FIR, applicant is said to have committed rape on the victim. However, the victim has stated in her statements recorded under sections 180 and 183 BNSS that applicant and three other co-accused persons committed gang rape on her. The victim is aged about 16 years as per her ossification test and around 13 years 7 months as per certificate of Class VIIIth, however, there is no High School certificate or certificate of school first attended, therefore, it is submitted that radio-logical age of the victim shall prevail. Medico-legal report of the victim does not support commission of rape on her. Co-accused Ankit has already been granted bail by this Court and the applicant, who has no criminal history, has been languishing in jail since 09.5.2026.

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. Let the applicant **Atul** 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.

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

9. 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.

10. 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.

11. 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 24, 2026
Madhurima

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