HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. BAIL APPLICATION No. - 33191 of 2026

Surendra Kushwaha

.....Applicant(s)

Versus

State Of U.P. And 3 Others

.....Opposite Party(s)

Counsel for Applicant(s)	:	Hanuman Prasad Kushwaha
Counsel for Opposite Party(s)	:	G.A.

Court No. - 65

HON'BLE SAMEER JAIN, J.

1. Sri Imran Khan, learned AGA submitted that on 15.9.2026 notice has been served to informant but it reflects, despite service of notice none appeared on behalf of informant. Therefore, considering the observation made by co-ordinate Bench of this Court vide order dated 11.1.2021 passed in the case of ***Ajeet Chaudhary vs State Of U.P. and Another (AIR ONLINE 2021 ALL 1149)***, the instant bail application is being heard.

2. Heard Sri Hanuman Singh, learned counsel for applicant, Sri Imran Khan, learned AGA for the State.

3. The instant bail application has been filed seeking release of the applicant on bail in Case Crime No.283 of 2026, under Sections 64(1), 351(3) BNS and Section 3/4(2) POCSO Act, Police Station Talbehat, District Lalitpur, during pendency of the trial.

4. Learned counsel for applicant submits, however, applicant is named in the FIR and according to the prosecution applicant committed rape upon victim who was 15 years old and victim also in her both the statements recorded under sections 180 and 183 BNSS stated against applicant but entire allegation levelled against applicant are totally false.

5. He next submits, actually victim herself had gone along with applicant, but when his family members came to know about this fact then they reached at the spot and thereafter F.I.R. of the present case was lodged

and considering the statement of the victim recorded during investigation, this fact cannot be ruled out.

6. He further argued, victim was aged about 16 years as per school record, but considering the facts of the case merely on this ground, it is not proper to reject the bail application of applicant.

7. He further argued, applicant is not having any criminal history and in the present matter he is in jail since 31.07.2026.

8. Per contra, learned A.G.A. opposed the prayer for bail and submits, as per school record victim was about 16 years of age and she in her statement recorded under Sections 180 and 183 BNSS categorically stated that applicant committed rape upon her.

9. He next submits, therefore, considering the facts of the case, the instant bail application may be dismissed.

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

11. However, as per school record, victim was about 16 years of age and she in her both the statements recorded under Sections 180 and 183 BNSS stated that applicant committed rape upon her, but the story narrated by her, prima facie, does not appear to be convincing and considering the facts of the case, the argument advanced by learned counsel for applicant cannot be ruled out at this stage.

12. Further, applicant is not having any criminal history and in the present matter, he is in jail since 31.07.2026 i.e. for the last three months.

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

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

15. Let the applicant - **Surendra Kushwaha** 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.

16. 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.

17. 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
Kumar Manish

(Sameer Jain,J.)

Digitally signed by :-
MANISH TRIPATHI
High Court of Judicature at Allahabad