2026:AHC:211357

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL No. - 10339 of 2026

Rakesh

.....Appellant(s)

Versus

State of U.P. and Another

.....Respondent(s)

Counsel for Appellant(s)	:	Sanjay Mishra
Counsel for Respondent(s)	:	G.A., M.P.S. Chauhan

Court No. - 74

HON'BLE SAMIT GOPAL, J.

1. List revised.

2. Heard Sri Sanjay Mishra, learned counsel for the appellant, Sri M.P.S. Chauhan, learned counsel for the opposite party no.2/first informant and Sri Ajay Singh, learned AGA-I for the State and perused the record.

3. Learned counsel for the opposite party no.2 submits that he has filed his vakalatnama in the office on 07.10.2026. The same is not on record. Office to trace out the same and place it on record and make a note in the order sheet about it.

4. This criminal appeal under Section 14A(2) of SC/ST (Prevention of Atrocities) Act, 1989 has been filed by the appellant Rakesh with the prayer to set-aside the judgment and order dated 06.08.2026 passed by Additional Session Judge / Special Judge (SC/ST) P.A. Act, Hathras in Bail Application No. 938 of 2026 (Rakesh Vs. State of U.P.) arising out of Case Crime No. 179 of 2026, under Sections 333, 64, 351(3) BNS and Section 3(2)(V), 3(1)(n), 3(1)/k of SC/ST Act, Police Station Kotwali Sadabad, District Hathras and with a further prayer to release the appellant on bail in the aforesaid case.

5. The FIR of the matter was lodged on 05.05.2026 by Netrapal Singh the opposite party no.2 against the appellant, Rahul and Virendra alleging therein that the appellant on threat and forcefully used to establish physical relationship with his daughter. He used to threaten her that she has to marry him and if she marries anyone else he would tell about it. Two days prior to her marriage on 15.04.2026 at about 08:40 pm the accused came to her house and hurled caste relating abuses and tried to forcefully pull his daughter.

6. Learned counsel for the appellant submitted that the appellant has been falsely implicated in the present case. It is submitted that the victim is a major girl aged about 20 years. It is submitted that as per statement of the

victim recorded under Section 183 BNSS the relationship between the victim and the appellant was continuing since last one year but no complaint whatsoever was made by her either to her parents or to any authorities. It is submitted that the relationship thus appears to be with consent. It is further submitted that subsequently when the marriage of the victim was settled some confusion arose and the present FIR has been lodged. It is submitted that charge sheet in the matter has been submitted and thus investigation has completed, para 16 of the affidavit has been placed before the Court for the same. It is submitted that thus there are no chances of the appellant tampering with evidence. The appellant has no criminal history as stated in para 18 of the bail application in appeal and is in jail since 18.07.2026.

7. Per contra, learned counsel for the opposite party no.2 and State opposed the appeal and prayer for bail.

8. After having heard learned counsels for the parties and perusing the records, it is evident that the victim is a major girl aged about 20 years. The relationship between the victim and the appellant was continuing since last one year. The FIR thus is belated. Investigation in the matter has concluded and charge sheet has been submitted.

9. Looking to the facts and circumstances of this case, the nature of evidence and also the absence of any convincing material to indicate the possibility of tampering with the evidence, this Court is of the view that the appellant may be enlarged on bail.

10. Let the appellant **Rakesh** be released on bail in the aforesaid case crime number on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned with the following conditions which are being imposed in the interest of justice:-

i) The appellant will not tamper with prosecution evidence and will not harm or harass the victim/complainant in any manner whatsoever.

ii) The appellant will abide the orders of court, will attend the court on every date and will not delay the disposal of trial in any manner whatsoever.

(iii) The appellant shall file an undertaking to the effect that he shall not seek any adjournment on the date fixed for evidence when the witnesses are present in court. In case of default of this condition, it shall be open for the trial court to treat it as abuse of liberty of bail and pass orders in accordance with law.

(iv) The appellant will not misuse the liberty of bail in any manner whatsoever. In case, the appellant misuses the liberty of bail during trial and in order to secure his presence proclamation under section 84

BNSS/82 Cr.P.C., may be issued and if appellant fails to appear before the court on the date fixed in such proclamation, then, the trial court shall initiate proceedings against him, in accordance with law, under section 209 BNS/174-A I.P.C.

(v) The appellant shall remain present, in person, before the trial court on dates fixed for (1) opening of the case, (2) framing of charge and (3) recording of statement under Section 251 BNSS/313 Cr.P.C. If in the opinion of the trial court absence of the appellant is deliberate or without sufficient cause, then it shall be open for the trial court to treat such default as abuse of liberty of bail and proceed against him in accordance with law and the trial court may proceed against him under Section 269 BNS/229-A IPC.

(vi) The trial court may make all possible efforts/endeavour and try to conclude the trial expeditiously after the release of the appellant.

11. The identity, status and residential proof of sureties will be verified by court concerned and in case of breach of any of the conditions mentioned above, court concerned will be at liberty to cancel the bail and send the appellant to prison.

12. Accordingly, the appeal succeeds and the same stands **allowed**.

13. The judgment and order dated 06.08.2026 passed by Additional Session Judge / Special Judge (SC/ST) P.A. Act, Hathras is hereby set aside.

(Samit Gopal,J.)

October 8, 2026
M. ARIF

Digitally signed by :-
MOHAMMAD ARIF
High Court of Judicature at Allahabad