HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. BAIL APPLICATION No. - 37100 of 2026

Banti @ Banshi

.....Applicant(s)

Versus

State Of U.P. And 3 Others

.....Opposite Party(s)

Counsel for Applicant(s)	:	Vipan Kumar
Counsel for Opposite Party(s)	:	G.A.

Court No. - 66

HON'BLE ARUN KUMAR SINGH DESHWAL, J.

1. Heard Sri Vipan Kumar, learned counsel for the applicant, Sri DPS Chauhan, 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. 0169 of 2026, under Sections-137(2), 87, 65(1) of B.N.S. (Corresponding Sections 359, 366, 376(3) of IPC and 3/4 of POCSO Act Police Station- Dannahar, District Mainpuri, during the pendency of the trial.

3. This matter was heard on 15.10.2026. On that date, the issue arose regarding the age of victim.

4. This Court in the case of **Shivam Yadav @ Chhotu Vs. State of U.P. and 3 Others, Neutral Citation No. 2026:AHC:168869** had already issued direction to the Principal Secretary, Basic Education, U.P., Lucknow to issue necessary guidelines regarding entry of the age of student at the time of admission. This Court came across number of cases where on the basis of false age certificate of victim, the accused boys of about 19 to 20 years old had been falsely implicated in the case under POCSO Act on the basis of false age certificate. This Court vide order dated 15.10.2026 directed the Principal Secretary, Basic Education, U.P., Lucknow to appear before this Court through video conferencing and apprise the Court about the actions taken by him in pursuance of the direction dated

12.08.2026 passed in **Shivam Yadav (supra)**.

5. In pursuance of order dated 15.10.2026, Sri Partha Sarthi Sensharma, ACS, Basic Education, U.P., Lucknow is present and written instruction was also supplied on his behalf by the learned AGA, it has been informed by the ACS, Basic Education, U.P., Lucknow that in pursuance of order of this Court passed in **Shivam Yadav (supra)**, a meeting was conducted on 17.09.2026 and again on 21.10.2026 with the other officials of Education Department and in outcome they proposed guidelines mentioned as below:

"(1) किसी भी छात्र-छात्रा के विद्यालय में प्रवेश करते समय जब कभी जन्म, मृत्यु और विवाह रजिस्ट्रीकरण अधिनियम 1886 के अधीन कोई प्रमाण पत्र उपलब्ध न हो तो विद्यालयों में प्रवेश के परियोजनार्थ वर्तमान में उत्तर प्रदेश नि:शुल्क एवं अनिवार्य बाल शिक्षा का अधिकार नियमावली 2011 के नियम-9 के प्रविधानानुसार निम्न 04 अभिलेखों में से कोई 01 अभिलेख बालक की आयु के प्रमाण के रूप में समझा जायेगा:

क- अस्पताल या सहायक नर्स एवं मिडवाइफ पंजी अभिलेख।

ख- आंगनवाड़ी वर अभिलेख।

ग- जन्म एवं मृत्यु संबंधी ग्राम पंजी।

घ- माता-पिता या अभिभावक द्वारा बालक की आयु की शपथ पत्र के माध्यम से घोषणा।

(2) छात्र-छात्रा के विद्यालय में प्रवेश के समय पर पंजिका (*Scholar Register)* में जन्मतिथि अंकित करते समय यह उल्लिखित किया जायेगा कि उपरोक्त में से कौन सा प्रमाण पत्र प्रवेश के समय छात्र अभिभावक द्वारा प्रस्तुत किया गया है। छात्र पंजिका (*Scholar Register)* में संबंधित अत्र-छात्रा से संबंधित प्रविष्टियों के कालम के समक्ष संबंधित कक्षा अध्यापक के हस्ताक्षर अंकित किये जायेंगे, चाहूँ यह प्रवेश कक्षा 01 में किया गया हो अथवा किसी अन्य कक्षा में।

(3) किसी सक्षम प्राधिकारी द्वारा आयु प्रमाण पत्र मांगे जाने पर निम्नवत आयु प्रमाण पत्र के प्रारूप के अनुसार विद्यालय में प्रधानाध्यापक/प्रधानाध्यापिका द्वारा उक्त प्रमाण पत्र दिया जायेगा, जो छात्र प्रवेश पंजिका में अंकित छात्र-छात्रा से संबंधित प्रविष्टियों के अनुसार अंकित किया जायेगा:-

<u>प्रमाण पत्र का प्रारूप</u>

छात्र-छात्रा का विद्यालय के अभिलेखों के अनुसार आयु प्रमाण पत्र जिन्होंने
हाईस्कूल/मैट्रिकुलेशन न किया हो

मैं प्रधानाध्यापक/प्रधानाध्यापिका.....प्रमाणित करता/करती हूँ कि मेरे विद्यालय..... .के अभिलेखों में अंकित जन्मतिथि.....के अनुसार छात्र/छात्रा..... ..... पुत्र/पुत्री... ..... की आयु दिनांक.. वर्ष..... माह.....दिन.....है।

प्रधानाध्यापक/प्रधानाध्यापिका के

हस्ताक्षर

नाम

मुहर

6. As per these guidelines, that at the time of admission on school, four documents are required to be submitted by the parent of a child as per **Rule 9 of the Uttar Pradesh Right of Children to Free and Compulsory Education Rules, 2011** which includes certificate issued by the Hospital, record of Aaganwadi Centre, record of birth, death maintained by the Gram Panchayat and in absence thereof affidavit of the parent of the child. It is further apprised by the ACS, Basic Education, U.P., Lucknow that before issuing final guidelines, he is consulting other departments including the Department of Law and as soon as consultation process is completed with other departments, then final guidelines would be issued regarding the Entry of Age and Format of Age Certificate issued by the School.

7. This court is satisfied with the explanation submitted by the ACS, Basic Education, U.P., Lucknow and appreciates his effort to prepare guidelines in consultation with other departments. This court further directs to all other departments to cooperate with ACS, Basic Education, U.P., Lucknow so that final guidelines regarding the Entry of Age in the School as well as birth certificate to be issued by the school.

8. Coming to the merits of this case, learned counsel for the applicant has submitted that, though in the FIR, an allegation has been made that the applicant has enticed away the daughter of the first informant, who is aged about 16 years, the victim girl, in her statements recorded under Sections 180 BNSS and 183 BNSS, clearly stated that she

passed Class VIII from Purva Madhyamik Vidyalaya, Jaramai, Mainpuri, and she is aged about 14 years. She further stated that she herself left her house along with the applicant as she was in love and in a relationship with him. It is further submitted that, though the father of the victim himself admitted that the victim is 16 years old, the school certificate of Class V was given to the police, which shows that the victim is less than 14 years old, by concealing the marksheet or school certificate of Class VIII. It is further submitted that the applicant has no criminal history. It is also submitted that the charge-sheet has been filed in the present case; therefore, there is no requirement for custodial interrogation. The applicant is a law-abiding citizen and has been languishing in jail since 20.08.2026. In case he is granted bail, he will not misuse the liberty of bail and will cooperate in the trial proceedings.

9. Per contra, learned A.G.A. has vehemently opposed the prayer for bail but could not dispute the aforesaid facts.

10. Considering the aforesaid submission and taking into account the statements of victim recorded under Section 180 BNSS and 183 BNSS as well as taking into account the medical examination of the victim was not conducted because of refusal on the part of her parent 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. Accordingly, the present application is **allowed**.

11. Let the applicant- **Banti alias Banshi,** 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.

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

13. Identity, status and residence proof of the applicant and sureties be verified by the court concerned before the bonds are accepted.

14. Verification of mobile number and Aadhaar card of the applicant as well as sureties should be verified by the court concerned.

15. It is made clear that the applicant shall be released on the basis of computer generated copy of this order, downloaded from the official website of High Court Allahabad and verified by the concerned counsel with the undertaking that the certified copy will be filed within 15 days.

16. 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.

17. Office is directed to send a copy of this order to the applicant through **Mainpuri Jail Superintendent** via e-mail or on e-prison portal and Trial Court via e-mode 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** as well as **Pila Pahan @ Peela Pahan and others Vs. State of Jharkhand and another,** in **Writ Petition (Criminal) No. 169 of 2025,** decided on **29.05.2026.**

18. **Registrar (Compliance)** is directed to send a copy of this order to the Chief Secretary, U.P., Lucknow for circulating the same to the Principal Secretary or ACS of respective departments whose consultation is required by the ACS, Basic Education, U.P., Lucknow for issuance of final guidelines regarding the entry of age in school.

October 24, 2026
S.C.

(Arun Kumar Singh Deshwal,J.)

Digitally signed by :-
SHUBHAM CHAURASIA
High Court of Judicature at Allahabad