HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. BAIL APPLICATION No. - 37905 of 2026

Pushpendra @ Pushkar

.....Applicant(s)

Versus

State Of U.P. And 3 Others

.....Opposite Party(s)

Counsel for Applicant(s)	:	Mrityunjay Dwivedi
Counsel for Opposite Party(s)	:	G.A.

Court No. - 66

HON'BLE ARUN KUMAR SINGH DESHWAL, J.

1. Heard Sri Mrityunjay Dwivedi, 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. 131 of 2026, under Section 65(1) of BNS, Police Station-Gaunda, District-Aligarh, during the pendency of the trial.

3. Contention of learned counsel for the applicant is that the applicant was already released on bail in the present case crime in Criminal Misc. Bail Application No. 23020 of 2026 on 21.09.2026. However, during the pendency of his bail application, the police filed a charge sheet wherein Section 64(1) of BNS was deleted and Section 65(1) of BNS was added, though the materials in the case diary remained the same. Therefore, the applicant is entitled to be released on bail under the newly added section also.

4. It is further submitted that the applicant has no criminal history. It is further 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 30.04.2026. In case he is granted bail, he will not misuse the liberty of bail and would cooperate in the trial proceedings.

5. Per contra, learned A.G.A. has vehemently opposed the prayer for bail

but could not dispute the aforesaid facts.

6. Considering the entire facts and circumstances of the case, the submissions of learned counsel for the parties, and taking into account the fact that the applicant was already released on bail in the present case crime in Criminal Misc. Bail Application No. 23020 of 2026 on 21.09.2026, and considering the serious contradictions in the statements of the victim recorded under Sections 180 and 183 BNSS, as well as the sexual assault report of the victim, and since no new material has been collected by the police, the applicant is entitled to be released on bail. Keeping in view the nature of the offence, evidence, complicity of the accused, and taking into account overcrowded jails and the heavy pendency of criminal cases before the trial courts, as well as considering the mandate of the judgment 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 the guideline of this Court in the case of **Maya Tiwari vs. State of U.P., 2024 SCC OnLine All 6765**, regarding the 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**.

7. Let the applicant- **Pushpendra @ Pushkar,** 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.

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

11. 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.

12. 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.

13. Office is directed to send a copy of this order to the applicant through **Jail Superintendent, Aligarh** 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.**

14. Application, if any, stands **disposed of**.

(Arun Kumar Singh Deshwal,J.)

October 24, 2026
SA

Digitally signed by :-
SALMAN ALI
High Court of Judicature at Allahabad