



2026:AHC:172060

HIGH COURT OF JUDICATURE AT ALLAHABAD
CRIMINAL MISC. BAIL APPLICATION No. - 26497 of 2026

Brijesh Yadav

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite
Party(s)

Counsel for Applicant(s) : Vishveshwar Mani Tripathi

Counsel for Opposite Party(s) : Dharendra Kumar Verma, G.A., Renu Swarnkar

Court No. - 65

HON'BLE SAMEER JAIN, J.

1. Supplementary affidavit filed on behalf of the applicant, is taken on record.
2. Heard Sri Vishveshwar Mani Tripathi, learned counsel for the applicant, Sri Shrawan Kumar Swarnkar, Advocate holding brief of Sri Dharendra Kumar Verma, learned counsel for the informant and Sri R.N. Srivastava, learned AGA for the State.
3. The instant bail application has been filed seeking release of the applicant on bail in Case Crime No. 240 of 2026, under Sections 191(2), 115(2), 351(2), 74, 70(1) of BNS, Police Station Kotwali Deoria, District Deoria, during pendency of the trial.
4. Learned counsel for the applicant submits that the FIR of the present case was lodged by the victim on 11.4.2026 against six motorcycle riders with regard to gang rape, but during the investigation, when the statement of the victim was recorded then she disclosed the name of the applicant along with other co-accused, namely, Monu Kushwaha and Ambuj Shahi.
5. He next submits that, as the victim did not disclose the name of the applicant and other co-accused in the FIR and in her statement recorded under Section 180 BNSS, she disclosed their names, therefore, prima facie, their involvement appears to be doubtful.
6. He next submits, even as per victim, rape was committed on

29.03.2026 but the FIR was lodged on 11.04.2026 i.e. after about two weeks and therefore, the FIR is highly delayed and this delayed FIR also suggests that it is based on false and frivolous facts.

7. He next submits that, however, victim in her statement recorded under Section 183 BNSS also reiterated her earlier version mentioned in the statement under Section 180 BNSS, but in the light of the above facts, even this statement of the victim also prima facie appears to be doubtful.

8. He further argues that, however, as per the victim, on the date of incident at about 12 a.m. in the night, she was along with her brother-in-law (devar) namely, Ram Iqbal but in fact, Ram Iqbal is not the brother-in-law (devar) of victim and actually victim is having an affair with him and due to this reason, her husband has already left her. He next submits, when on the date of incident, the villagers including the applicant, witnessed her along with Ram Iqbal then under societal pressure, she lodged the FIR of present case and subsequently, disclosed the name of the applicant along with other co-accused.

9. He next submits that, even after considering the entire facts in detail, co-accused Monu Kushwaha and Ambuj Shahi have been released on bail by a coordinate Bench of this Court vide orders dated 7.8.2026 and 11.8.2026, passed in Criminal Misc. Bail Applications Nos. 25991 of 2026 and 25920 of 2026, respectively and case of the applicant is exactly at par with them.

10. He next submits that, apart from the present case, applicant is having criminal history of one another case but that case relates to minor offence and in the present case, applicant is in jail since 12.04.2026.

11. He further submits that therefore, considering the above facts applicant may be enlarged on bail.

12. Per contra, learned AGA as well as learned counsel for the informant opposed the prayer for bail but could not dispute the argument on facts advanced by the learned counsel for the applicant.

13. I have heard learned counsel for the parties and perused the record of the case.

14. However, it is a case of gang rape, but considering the arguments advanced by learned counsel for the applicant and the material available on record, prima facie, the prosecution case appears to be doubtful.

15. Further, even the bail applications of co-accused Monu Kushwaha and Ambuj Shahi have been allowed by a coordinate Bench of this Court and case of the present applicant is at par with them.

16. Further, however, apart from the present case, applicant is having criminal history of one other case but that case relates to minor offence.

17. Further, in the present case, applicant is in jail since 12.04.2026 i.e. for the last more than four months.

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

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

20. Let the applicant -**Brijesh Yadav** 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.

21. 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.

22. 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.

(Sameer Jain,J.)

August 14, 2026

Nisha