



2026:AHC:171269

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. BAIL APPLICATION No. - 26605 of 2026

Akash

.....Applicant(s)

Versus

State Of U.P. And 3 Others

.....Opposite
Party(s)

Counsel for Applicant(s) : Abhishek Pandey, Ramesh Kumar
Pandey

Counsel for Opposite Party(s) : G.A.

Court No. - 67

HON'BLE JITENDRA KUMAR SINHA, J.

1. Shri Deeraj Singh has filed Vakalatnama on behalf of the first informant is taken on record.
2. Heard Shri Ramesh Kumar Pandey, learned counsel for the applicant, Shri Dheeraj Singh, learned counsel for the first informant and Shri B.P. Maurya, learned A.G.A. for the State and perused the record.
3. The instant bail application has been filed with a prayer to release the applicant on bail in Case Crime No. 604 of 2025, under Sections 70(2) of B.N.S. and Sections 5(j)(ii)/6 of POCSO Act, Police Station Nandgram, District Ghaziabad, during the pendency of the trial.
4. Learned counsel for the applicant has submitted that the applicant has been falsely implicated in the present case though there is no incriminating material against him. It is further submitted that the first information report has been lodged after delay of 5 months and from the conduct of the victim and on perusal of the statement of the victim recorded under Sections 180 and 183 BNSS, it appears that she is a consenting party. It is further submitted that the age of the victim has been found to be 16 years as per certificate of Class VI, in which, the Principal of the School has stated that the victim took admission in Class V, therefore, the said certificate is not admissible, however, there is no certificate of high school or certificate of school first attended and no radio-logical examination has been conducted for her age determination.

It is further submitted that the victim has been found to be pregnant and no video or photograph has been made viral by the applicant and nothing was recovered from the possession of the applicant. It is further submitted that no provision of I.T. Act has been invoked in the charge sheet and the age of the applicant has been found to be 18 years and 5 months and it is an adolescent love and consensual relationship. It is further submitted that the applicant is having no criminal history and the applicant has been languishing in jail since 19.09.2025, 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 counsel for the first informant and learned A.G.A. have vehemently opposed the prayer for bail and it has been submitted by him that the victim is aged about 16 years and her consent is immaterial. It is further submitted by them that the applicant has recorded a video of the said incident and he has also made it viral to the co-accused Sagar and co-accused Sagar also transmitted it to his friend Khushi.

6. As per first information report, the applicant is said to have committed rape on the victim aged about 15 years, as a result of which, the victim became pregnant of five months. It is further submitted that the victim in her statement recorded under section 180 BNSS has stated that she knew the applicant for the last one and half years and the applicant is aged about 18 years and 6 months and thereafter, they met in a cafe and the applicant and co-accused established physical relationship with her in a cafe, whereas, the victim in her statement recorded under Section 183 BNSS has stated that she was on talking terms with the applicant and the applicant established physical relationship on the false promise of marriage. It is further submitted that the applicant took her to the house of the Pawan where, the applicant established physical relationship with her and thereafter, the co-accused committed rape on her and the applicant also recorded a video of the said incident. It is further submitted that the first information report has been lodged after delay of 5 months and from the conduct of the victim and on perusal of the statement of the victim recorded under Sections 180 and 183 BNSS, it appears that she is a consenting party. It is further submitted that the age of the victim has been found to be 16 years as per certificate of Class VI, in which, the principal of the School has stated that the victim took admission in Class V,

therefore, the said certificate is not admissible, however, there is no certificate of high school or certificate of school first attended and no radio-logical examination has been conducted for her age determination. It is further submitted that the pregnancy of the victim is said to have been aborted by the direction of the Court. It is further submitted that no provision of I.T. Act has been invoked in the charge sheet and the age of the applicant has been found to be 18 years and 5 months. It is further submitted that the applicant is having no criminal history and the applicant has been languishing in jail since 19.09.2025.

7. Considering the entire facts and circumstances of the case, submissions of learned counsel for the parties 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.

8. Accordingly, the present application is **ALLOWED**.

9. Let the applicant- **Akash** 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.

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

11. Identity, status and residence proof of the applicant and sureties be verified by the court concerned before the bonds are accepted. Verification of mobile number and Aadhaar card of the applicant as well as sureties should be verified by the court concerned.

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**, Ghaziabad via e-mail or e-prison portal 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.

(Jitendra Kumar Sinha,J.)

August 14, 2026

RKM