



2026:AHC:171635

HIGH COURT OF JUDICATURE AT ALLAHABAD
CRIMINAL MISC. BAIL APPLICATION No. - 27588 of 2026

Nitesh Kumar

.....Applicant(s)

Versus

State Of U.P. And 3 Others

.....Opposite
Party(s)

Counsel for Applicant(s)	: Vipin Kumar Singh
Counsel for Opposite Party(s)	: Anil Kumar Singh, Dharendra Kumar Verma, G.A., Richa Dwivedi

Court No. - 65

HON'BLE SAMEER JAIN, J.

1. Case called out in revised list. None is present on behalf of informant.
2. Supplementary affidavit filed by the applicant is taken on record.
3. Heard Sri Vipin Kumar Singh, learned counsel for the applicant and Sri Imran Khan, learned AGA for the State.
4. The instant bail application has been filed seeking release of the applicant on bail in Case Crime No. 250 of 2026, under Sections 137(2), 87, 64(2) BNS and Section 5(j)(ii)/6 POCSO Act, Police Station Sikrara, District Jaunpur during pendency of the trial.
5. Learned counsel for the applicant submits, however, as per allegation, applicant enticed away the daughter of the informant and thereafter committed rape upon her but entire allegations leveled against applicant are totally false.
6. He further submits, from the statements of victim recorded during investigation it is apparent that she was consenting party and she herself had gone along with applicant and performed marriage with him and both applicant and victim were having love affair. He further submits, from both the statements of victim it is reflected that she was even pregnant with the applicant.
7. He further submits, however, as per school record victim was about 15 and 1/2 years old but as per her radio-logical report her age is about 18

years, therefore, prima facie at this stage it cannot be said that victim is below 18 years of age. He further submits, considering the statements of victim recorded during investigation merely on the basis of age of the victim disclosed in the school record it is not proper to dismiss the bail application of the applicant.

8. He further submits, applicant is not having any criminal history and in the present matter he is in jail since 09.07.2026.

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

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

11. However, as per allegation, applicant enticed away the daughter of informant and thereafter committed rape upon her but from the statements of victim recorded under Sections 180 and 183 BNSS it is evident that she herself had gone along with applicant and both were having love affair and even both performed marriage and they started living together.

12. Record further suggests that even from the applicant, victim also conceived. However, from the school record it reflects, victim was about 15 and 1/2 years old but as per certificate of CMO concerned her radio-logical age is about 18 years.

13. Considering the overall facts and circumstances of the case including statements of victim recorded during investigation, this Court finds merit in the argument advanced by learned counsel for applicant that in such matters it is not proper to dismiss the bail application of the applicant.

14. Further, applicant is not having any criminal history and in the present matter he is in jail since 09.07.2026.

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

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

17. Let the applicant - **Nitesh Kumar** 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.

18. 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.

19. 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.

August 14, 2026
AK Pandey

(Sameer Jain,J.)