



2026:AHC:172000

HIGH COURT OF JUDICATURE AT ALLAHABAD
CRIMINAL MISC. BAIL APPLICATION No. - 27607 of 2026

Sushil Kumar

.....Applicant(s)

Versus

State Of U.P. And 3 Others

.....Opposite
Party(s)

Counsel for Applicant(s)	:	Dinesh Mishra
Counsel for Opposite Party(s)	:	G.A.

Court No. - 65

HON'BLE SAMEER JAIN, J.

1. Sri Shatrughan Yadav, learned AGA apprised the Court that as per his instructions notice has been served to the informant on 22.7.2026. As despite service of notice which was served about a month before, till date none appeared on behalf of the informant even in the revised call, therefore, instant bail application is being heard.
2. Heard Sri Dinesh Mishra, learned counsel for the applicant and Sri Shatrughan Yadav, learned AGA for the State-respondent.
3. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 83 of 2026, under Sections 137(2), 87, 65(1) BNS and section 5(N)/6 POCSO Act, Police Station Khakhreru, District Fatehpur, during pendency of the trial in the court below.
4. Learned counsel for the applicant submitted that however as per allegation, applicant enticed away the minor daughter of the informant and thereafter committed rape upon her but entire allegations levelled against the applicant are totally false.
5. He further submitted that from the statement of the victim recorded under Section 180 BNSS, it reflects that she on her own had gone to the house of her relatives and she did not even disclose the name of the applicant in her statement but when her statement under Section 183 BNSS was recorded then she disclosed the name of the applicant but even from this statement it reflects that she herself had gone alongwith the applicant and had already performed marriage with him.

6. He further submitted that actually applicant and victim both have already performed marriage and even at present victim is living in the house of the applicant alongwith his parents.

7. He further submitted that even from the applicant, victim has also conceived.

8. He further submitted that however from the school record it reflects, victim is fourteen and a half years of age but actually she is about 18 years of age. He next submits, even from the record it reflects that on the basis of her class 7 certificate, prosecution disclosed her age as fourteen and a half years and as it reflects, her age is not based on her first attended school, therefore, at this stage it cannot be said that victim is below 18 years of age.

9. He further submitted that even considering the facts of the case, including the statement of the victim, at this stage, merely on the basis of age of the victim, it is not proper to withhold the instant bail application of the applicant.

10. He further submitted that applicant is having no previous criminal history and in the present matter, he is in jail since 26.05.2026.

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

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

13. However as per allegation, applicant enticed away the daughter of the informant and thereafter committed rape upon her but from the statement of the victim recorded under Section 180 BNSS, it reflects that she herself had gone to the house of her relatives and stayed there and in this statement she did not even disclose the name of the applicant.

14. Further, however when statement of victim under Section 183 BNSS was recorded then she disclosed the name of the applicant but even from this statement it reflects that she herself had gone alongwith the applicant and even had performed marriage with him.

15. Further even as per the applicant, the victim at present is residing in his

house along with his parents and even she has conceived with the applicant.

16. Further, however from the school record of class 7 of the victim, it reflects that she is about fourteen and half years of age but her radiological age is not on record and considering the fact that age of the victim is not based on her first attended school, this Court finds merit in the argument advanced by learned counsel for the applicant that at this stage it cannot be said that victim is below 18 years of age.

17. Further, even considering the overall facts of the case including the statements of the victim recorded during investigation, in considered view of this Court merely on the basis of age of the victim as disclosed in her school record, the instant bail application should not be withheld after ignoring her both the statements recorded during investigation.

18. Further, applicant is having no previous criminal history and in the present matter he is in jail for last almost three months.

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

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

21. Let the applicant-**Sushil 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.

22. 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.

23. 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
Ankita

(Sameer Jain,J.)