



2026:AHC-LKO:40670

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

CRIMINAL MISC. BAIL APPLICATION No. - 3907 of 2026

Aashiq

.....Applicant(s)

Versus

State Of U.P. Thru. Prin. Secy. Home Lko. And 4
Others

.....Opposite
Party(s)

Counsel for Applicant(s)	:	Bharat Kumar Dixit
Counsel for Opposite Party(s)	:	G.A.

Court No. - 11

HON'BLE RAJEEV SINGH, J.

1. Heard learned counsel for the applicant, learned A.G.A for the State of U.P. and perused the record.

2. Vakalatnama filed by Sri Kamal Kishor Tiwari and Sri Ankit Tripathi learned counsel on behalf of complainant is taken on record.

3. The instant bail application has been filed on behalf of the applicant with a prayer to enlarge him on bail in Case Crime No.52 of 2026, under Sections 3/4 of POCSO Act, 64(1), 333 BNS (376, 452 IPC), Police Station-Mohan Ganj, District- Amethi.

4. Learned counsel for the applicant submits that the applicant is an innocent person and has been falsely implicated in the present case. As admittedly, the victim was in association with the applicant. As on the date of incident, the applicant was called by the victim, when she was alone at her house, the applicant visited and after some time, mother of the victim also came there and thereafter they were caught by the mother of the victim and the mother of the victim scolded the victim and slapped her, thereafter, on the basis of incorrect facts, FIR in question was lodged. During course of investigation, statement of the informant as well as victim were recorded under Sections 180 and 183 BNSS. In the statement of informant, she stated that on the pretext of marriage, applicant made physical relation with the victim and in the statement of victim, she stated

that she was continuously in conversation with the applicant but when this fact came into the notice of the family member then she blocked the number of the applicant. On the date of incident, applicant made a call but her net of the victim's mobile was off therefore, she could not attend the call thereafter, the applicant visited her house and also started doing indecent act by giving assurance of marriage and he also made physical relation thereafter her statement was also recorded under Section 183 BNSS in which, she stated that the applicant visited her house and asked about her mother, she informed that her mother went to a shop for purchasing some articles along with her younger brother then the applicant dragged her in room and made physical relations forcibly and the victim also made call to her mother but her mobile was snatched and thrown by him and after 5 to 10 minutes, mother came there and she saw the incident and she tried to save her daughter and also tried to catch the applicant but he ran away.

5. Learned counsel for the applicant submitted that it is a case of consent but when the mother of the victim reach there, then story was scripted. As per the prosecution case, physical relation was made by the applicant but in the pathology examination, no spermatozoa is found. The applicant is in jail since 07.03.2026. Charge sheet has been filed. There is no possibility of tampering of evidence and witnessess. In these circumstances, the applicant is entitled for bail. In case of being enlarged on bail, he will not misuse the liberty of bail.

6. Learned A.G.A. as well as counsel for the complainant opposed the prayer for grant of bail to the applicant, and submitted that the victim is a minor girl and she categorically supported the prosecution version but they do not dispute the fact that as per the prosecution case, rape was committed by the applicant but in the pathology report, no any spermatozoa is found.

7. Considering the rival submissions of learned counsel for the applicant, learned A.G.A. and going through the contents of FIR as well as other relevant documents, including the statement of the witnesses including the victim, as per prosecution case, the applicant made physical relation with the victim but in the pathology report, no any spermatozoa is found, this

Court is of the view that the applicant is entitled to be released on bail.

8. The bail application is ***allowed***.

9. Let the applicant-**Aashiq** who is involved in aforementioned case 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, subject to following conditions:

(i) The applicant shall not commit or participate in any offence similar to the offence of which he is accused, or suspected, of the commission of which he is suspected.

(ii) 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.

(iii) The applicant shall file an undertaking to the effect that he shall not seek any adjournment on the date fixed for evidence when the witnesses are present in Court. In case of default of this condition, it shall be open for the Trial Court to treat it as abuse of liberty of bail and pass orders in accordance with law.

(iv) The applicant shall remain present before the Trial Court on each date fixed, either personally or through his counsel. In case of his absence, without sufficient cause, the Trial Court may proceed against him under Section 229-A I.P.C./269 B.N.S.

(v) In case, the applicant misuses the liberty of bail during trial and in order to secure his presence proclamation under Section 82 Cr.P.C./84 B.N.S.S. may be issued and if applicant fails to appear before the Court on the date fixed in such proclamation, then, the Trial Court shall initiate proceedings against him, in accordance with law, under Section 174-A I.P.C./209 B.N.S.

(vi) The applicant shall remain present, in person, before the Trial Court on dates fixed for (1) opening of the case, (2) framing of charge and (3) recording of statement under Section 313 Cr.P.C./351 B.N.S.S. If in the

opinion of the Trial Court absence of the applicant is deliberate or without sufficient cause, then it shall be open for the Trial Court to treat such default as abuse of liberty of bail and proceed against him in accordance with law.

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

(Rajeev Singh,J.)

June 10, 2026
Harshita