



2026:AHC:168461

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. BAIL APPLICATION No. - 5075 of 2026

Divyanshu @ Lauki

.....Applicant(s)

Versus

State Of U.P. And 3 Others

.....Opposite
Party(s)

Counsel for Applicant(s)	:	Rajesh Dwivedi
Counsel for Opposite Party(s)	:	G.A., Savita Dubey

Court No. - 67

HON'BLE JITENDRA KUMAR SINHA, J.

1. Heard Sri Rajesh Dwivedi, learned counsel for the applicant and Sri B.P. Singh, learned A.G.A. for the State and Miss Savita Dubey, learned counsel for the High Court Legal Services Committee and perused the record.
2. The instant bail application has been filed with a prayer to release the applicant on bail in Case Crime No. 319 of 2025, under Sections 70(1), 308(2) of BNS and Section 3/4 of POCSO Act, Police Station Maharajpur, District Kanpur Nagar, during the pendency of the trial.
3. As per the report submitted by the Chief Judicial Magistrate, Kanpur Nagar notice has been served on the first informant.
4. It is contended by the learned counsel for the applicant that the applicant has been falsely implicated in the present case and the age of the victim has been found to be 18 years as per radio-logical examination and age of the victim has been found to be 17 years and 07 months as per her certificate of Class 8th however, there is no High School certificate or the certificate of school first attended. It is further submitted that the medico-legal report of the victim does not support the commission of rape on her and from the attending facts and circumstances it appears that she is a consenting party. It is also submitted that the applicant has been

languishing in jail since 6.8.2025 and he is having no criminal history. It is lastly submitted that in case the applicant is granted bail, he will not misuse the liberty of bail and would cooperate in the trial proceedings.

5. Per contra, learned A.G.A. and learned counsel for High Court Legal Services Committee have vehemently opposed the prayer for bail, however, it is submitted that the victim in her statement recorded under Sections 180 and 183 BNSS has categorically stated that the applicant and co-accused Himanshu committed gang rape on her and two independent witnesses have also stated before the I.o. that the applicant called them by making a call and asked them to stand guard to the victim. It is further submitted that one mobile phone has been recovered from the possession of co-accused Raj in which the applicant was found threatening the victim.

6. The applicant is not named in the FIR and his name has surfaced during investigation. As per the allegation in the FIR, co-accused Himanshu and one unknown person are said to have committed gang rape on the victim. The victim in her statement recorded under Sections 180 and 183 BNSS has stated that co-accused Himanshu committed rape on her. The age of the victim has been found to be 18 years as per radio-logical examination and age of the victim has been found to be 17 years and 07 months as per her certificate of Class 8th however, there is no High School certificate or the certificate of school first attended. The medico-legal report of the victim does not support the commission of rape on her. The applicant has been languishing in jail since 6.8.2025 and he is having no criminal history.

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- **Divyanshu @ Lauki** 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 **concerned Jail Superintendent** 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.

August 11, 2026

Abhishek

(Jitendra Kumar Sinha,J.)