



2026:AHC:16431

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. BAIL APPLICATION No. - 2220 of 2026

Shahwaz Ashraf @ Shahbad Ashrfi

.....Applicant(s)

Versus

State of U.P.

.....Opposite
Party(s)

Counsel for Applicant(s)	:	Javed Habib
Counsel for Opposite Party(s)	:	G.A.

Court No. - 65

HON'BLE DR. GAUTAM CHOWDHARY, J.

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

2. Learned counsel for the applicant has contended that the F.I.R. is delayed by one year and nine months. He further submits that the victim in her statement recorded under Section 180 of B.N.S.S., has specifically stated that the victim used to talk with the applicant and that she took divorced from her husband at the pretext of applicant. Further she has stated that the applicant administered some intoxicated substance in a cold drink on account of which she became unconscious and the applicant has committed rape with her. Learned counsel has drawn attention of this Court to the question-answer recorded in the said statement, wherein she has categorically stated that she was residing with the applicant as husband and wife, since last two years. However, the victim, in her statement recorded under Section 183 of B.N.S.S., apart from the allegation of rape, has also alleged that the applicant took her obscene photographs and the same was shown to her, thereafter the applicant on the pretext to viral the photograph used to commit rape frequently with her. It is thus contended that there are material contradiction in the statement of the victim recorded under Sections 180 and 183 of B.N.S.S. Learned counsel further argued that according to the age certificate certificated

issued by the office of Chief Medical Officer, Budaun, the age of the victim is about 26 years. He thus submits that the victim was in consensual relationship with the applicant and out of some discord, the F.I.R. of the instant case has been lodged after one year and nine months, which itself demonstrate the entire prosecution story is false. He next submits that apart from the fact that the victim has also refused to undergo for medical examination, which also cast shadow of doubt upon the prosecution story. Several other submissions in order to demonstrate the falsity of the allegations made against the applicant have also been placed before the Court. The circumstances which, according to the counsel, led to the false implication of the accused have also been mentioned. It has also been assured on behalf of the applicant that he is ready to cooperate with the process of law and shall faithfully make himself available before the court whenever required and is also ready to accept all the conditions which the Court may deem fit to impose upon him. He next submits that applicant is languishing in jail since 19.11.2025 having no criminal history.

3. Per contra, learned A.G.A. has opposed the prayer for bail of the applicant by contending that the innocence of the applicant cannot be adjudged at pre trial stage, therefore, he does not deserve any indulgence. In case the applicant is released on bail he will again indulge in similar activities and will misuse the liberty of bail.

4. Considering the entire facts and circumstances of the case, submissions of learned counsel for the parties, nature of evidence, and all attending facts and circumstances of the case, without expressing any opinion on merits of the case, this Court is of the view that the applicant has made out a case for bail. Hence the bail application is allowed.

5. Let applicant **Shahwaz Ashraf @ Shahbad Ashrfi** involved in Case Crime No.491 of 2025 under Sections 376(2) (एन),

328, 506 I.P.C., Police Station Civil Lines, District Badaun, be released on bail on furnishing a personal bond and two local heavy sureties each of the like amount to the satisfaction of the court concerned subject to the following conditions:-

- i) The applicant shall not tamper with the prosecution evidence.
- ii) The applicant shall not threaten or harass the prosecution witnesses.
- iii) The applicant shall appear on the date fixed by the trial court.
- iv) The applicant shall not commit an offence similar to the offence of which the applicant is accused, or suspected of the commission.
- v) 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 such person from disclosing facts to the Court or to any police officer or tamper with the evidence.

6. In case of breach of any of the above condition, the trial Court shall be at liberty to cancel the bail of the applicant in accordance with law.

January 22, 2026
S.Ali

(Dr. Gautam Chowdhary,J.)