



2026:AHC:18335

HIGH COURT OF JUDICATURE AT ALLAHABAD
CRIMINAL MISC. BAIL APPLICATION No. - 2445 of 2026

Jitendra Nishad

.....Applicant(s)

Versus

State of U.P.

.....Opposite
Party(s)

Counsel for Applicant(s) : Krishna Shankar, Sumit Kumar Gupta
Counsel for Opposite Party(s) : G.A.

Court No. - 65

HON'BLE DR. GAUTAM CHOWDHARY, J.

1. Heard learned counsel for the applicant as well as learned A.G.A. for the State and perused the material brought on record.

2. Learned counsel for the applicant submits that applicant is named in the F.I.R. In the FIR it has been alleged by the informant that when she went outside the house the applicant reached there and after alluring her mentally retarded daughter aged about 23 years, took her upon the roof of the house where he committed her rape. The statement of the victim under Section 180 BNSS was recorded with the help of her mother, wherein she made allegation of rape against the applicant. Thereafter, statement of the victim under Sections 180 & 183 BNSS was recorded with the help of psychiatric, in which she also made allegation of rape against the applicant. As per the prosecution case the alleged incident occurred on 29.07.2025 and the victim was medically examined on 30.07.2025 promptly, and in her medical examination though some external injury were found in the form of abrasions but her hymen was found old healed torn, no spermatozoa was seen on her vaginal smears, thus, medical evidence does not corroborate with the allegation of forcible rape committed upon her. Thus, it has been argued that it is a false case of implication and the applicant has been implicated in the case with false and frivolous allegations due to ulterior motive and malafide intention. 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 the applicant is in jail since 31.07.2025, with 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.

4. Considering the overall facts and circumstances, the nature of allegations, the gravity of offence and without expressing any opinion on merits, this Court finds it to be a fit case for bail. Accordingly, the bail application stands allowed.

5. Let the applicant-Jitendra Nishad, be enlarged on bail in Case Crime No. 139 of 2025, under Section 64(2)(K) of B.N.S., Police Station-Kareli, District- Allahabad/ Prayagraj, on executing a personal bond and furnishing two local sureties each in the like amount to the satisfaction of the court concerned with 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 any 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 default of any of the conditions enumerated above, the court concerned shall be at liberty to cancel the bail of applicant in accordance with law.

(Dr. Gautam Chowdhary,J.)

January 27, 2026

Mustaqeem.