



2026:AHC:62250

HIGH COURT OF JUDICATURE AT ALLAHABAD
CRIMINAL MISC. BAIL APPLICATION No. - 948 of 2026

Kadir

.....Applicant(s)

Versus

State Of U.P. And 3 Others

.....Opposite
Party(s)

Counsel for Applicant(s)	:	Akash Garg
Counsel for Opposite Party(s)	:	G.A.

Court No. - 64

HON'BLE VIVEK VARMA, J.

1. As per the office report dated 16.03.2026, notice of the present application has been served upon the informant through his father.
2. Learned A.G.A. on the basis of instructions submits that notice of the present application has been served upon the informant- opposite party no. 4 and the Child Welfare Committee, Saharanpur- opposite party no. 3. The receiving endorsements produced by the learned A.G.A. are taken on record. However, no one appears on behalf of the said opposite parties nor any counter affidavit has been filed on their behalf.
3. Heard learned counsel for the applicant and Sri Neeraj Kumar Sharma, learned A.G.A. for the State-opposite party.
4. The present bail application has been filed with the prayer to enlarge the applicant on bail in Case Crime No. 151 of 2025, under Sections 137(2), 64(1), 351(2) B.N.S. and 3/4 POCSO Act, Police Station Mirzapur, District Saharanpur during the pendency of the trial.
5. Learned counsel for the applicant submits that the applicant has been falsely implicated in the present case. The incident is alleged to have occurred on 19.08.2025. The first information

report was lodged on 25.08.2025. The delay is fatal to the prosecution case. The victim is major. As per the ossification test report, the victim is aged 16 years. The range of error in determining the age is about two years and the same should be read in favour of the applicant at this stage. However, the victim in her statement under Section 180 B.N.S.S. has stated that she is aged 18 years 6 months and had left her house voluntarily. There are no allegations against the applicant. However, the victim in her statement under Section 183 B.N.S.S. has stated a contrary version. It is contended that the material inconsistencies in the statements of the victim under Sections 180 and 183 B.N.S.S. discredit the prosecution case. The applicant did not act inappropriately with the victim. At this stage there is no corroborative evidence to link the applicant with the offence. The applicant is in jail since 28.09.2025 having no criminal history and if he is released on bail, he will not misuse the said liberty.

6. Learned A.G.A. has opposed the prayer for bail but could not satisfactorily dispute the aforesaid submissions from the record.

7. Having heard learned counsel for the parties and after perusal of the record, this Court prima facie finds that the first information report has been lodged belatedly. The victim in her statement under Section 180 B.N.S.S. has stated that she is aged 18 years 6 months and had left her house voluntarily. There are no allegations against the applicant in the said statement. However, the victim in her statement under Section 183 B.N.S.S. has stated a contrary version. The material inconsistencies in the statements of the victim under Sections 180 and 183 B.N.S.S. discredit the prosecution case. At this stage there is no corroborative evidence to link the applicant with the offence. The applicant has no criminal antecedents. Moreover, the applicant has remained confined for almost six months and after submission of the charge-sheet there is no hope of early conclusion of trial, and no reasonable apprehension has been brought to the fore by the State that the applicant, if enlarged on bail, would either tamper with the evidence or delay the trial or intimidate the witness, therefore, without commenting on the merits of the case, I am of the opinion that the applicant is

entitled to be enlarged on bail.

8. Let the applicant- Kadir, involved in the aforesaid case, be released on bail on his furnishing a personal bond and two sureties each in the like amount to the satisfaction of Court concerned subject to the conditions that he:

- (i) shall appear on the date fixed by the trial court;
- (ii) shall not tamper with the prosecution evidence; and,
- (iii) shall not pressurize the prosecution witnesses.

9. In case of breach of any of the above conditions, the prosecution shall be at liberty to move bail cancellation application before this Court.

March 24, 2026
SKT/-

(Vivek Varma,J.)