



2026:AHC-LKO:19266

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

CRIMINAL MISC. BAIL APPLICATION No. - 1802 of 2026

Shivam @ Shubham Mishra

.....Applicant(s)

Versus

State Of U.P. Thru. Prin. Secy. Home Lko. And 3 Others

.....Opposite Party(s)

Counsel for Applicant(s)	:	Ram Achal Gupta, Manoj Kumar Mishra
Counsel for Opposite Party(s)	:	G.A.

Court No. - 13

HON'BLE SAURABH LAVANIA, J.

1. Supplementary affidavit filed by applicant's counsel in the Court today is taken on record. Affidavit filed by Sri Ganga Prasad, Advocate on behalf of the complainant in the Court today is also taken on record.

2. Heard learned counsel for the parties and perused the record.

3. The present application has been filed on behalf of the applicant seeking bail in Case Crime No. 0379/2025, under Sections- 137(2), 87, 65(1), 351(3) B.N.S., Section- 3/4(2) POCSO Act and Sections- 3(1)(d), 3(1)(dha), 3(1)(b), 3(2)(v), 3(2)(va) SC/ST Act, Police Station- Antoo, District- Pratapgarh.

4. While pressing the present application, the learned counsel for the applicant stated that the age i.e. 15 years of prosecutrix/victim indicated in the FIR in issue i.e. FIR No. 0379/2025 dated 24.11.2025 lodged by the informant/opposite party No. 2 at Police Station- Antoo, District- Pratapgarh making allegations therein so as to attract the offences as indicated under Sections- 137(2), 87 B.N.S., is subject to evidence adduced by the parties before the trial court and at this stage of bail the benefit of various pronouncements on the issue related to determination of age including the judgment passed by the Hon'ble Apex Court in the case(s) of ***Birad Mal Singhvi Vs. Anand Purohit, reported in (1988) Supp SCC 604, State of Punjab Vs. Gurmit Singh, reported in (1996) 2 SCC 384, Suhani Vs. State of U.P. delivered on 26.04.2018 in Civil Appeal No.4532 of 2018 arising out of SLP(C) No.8001 of 2018 and in the case of Manak Chand alias Mani Vs. State of Haryana reported in 2023 SCC OnLine SC 1397*** shall be extended in favour of the applicant, as according to medical opinion on the date of alleged incident the victim was aged about 17 years.

5. It is further stated that a perusal of FIR in issue would indicate that the victim on her volition left her parental house and therefore the same was lodged by the father of the prosecutrix/victim against unknown person.

6. It is further stated that during investigation, the victim was recovered and her statement was recorded by the Investigating Officer (in short "I.O."). The copy of statement of victim recorded by the I.O. in terms of Section 180 B.N.S.S., on record as Annexure No. 3 to the instant bail application, would

indicate that the victim, aged about 17 years, was in affair with the applicant and on 20.11.2025, the victim on her volition left her parental house situated at Bhadosi, Police Station- Antoo, District- Pratapgarh and reached the house of the applicant situated at Village- Badgaon and stayed with the applicant till 25.11.2025 and this statement of victim further indicates that the victim on her own volition solemnized marriage with the applicant.

7. It is further stated that before the Magistrate concerned the victim under the pressure of family members changed her version and levelled the allegations against the applicant, as per which it is the applicant who enticed away the victim and also established physical relations with her against her will. However, this statement also indicates that the marriage was solemnized by the victim with the applicant and the applicant and victim were known to each other. Reference in this regard has been made to Annexure No. 4, which is the copy of statement of victim recorded in terms of Section 183 B.N.S.S.

8. Based upon the affidavit dated 16.03.2026 of the complainant filed in the Court today, it is further stated that earlier the family members of the prosecutrix/victim were not agreed with the relationship of the applicant and victim but now they are ready. Reference in this regard had been made to Paragraphs 2 and 3 of the affidavit of complainant filed in the Court today, which are extracted hereunder:-

"2. That the matter of marriage has been discussed with the father of accused and deponent (father of victim). Family of accused And family of victim have given consent for marriage. No any dispute of both parties.

3. That is stated that we have already married our daughter to the accused, and now we will marry both the victim and accused (legally/formally) with everyone's consent."

9. It is further stated that considering the statement(s) of victim recorded in terms of Section(s) 180 and 183 B.N.S.S. and also the fact that the family members of the victim have now accepted the relationship of the applicant and victim and also that the victim, as per herself, had solemnized the marriage with the applicant, the applicant is entitled to be enlarged on bail. In case of being enlarged on bail, the applicant will not misuse the liberty of bail and will cooperate in trial and would also not influence the prosecution witnesses.

10. Learned A.G.A. opposed the prayer for bail, however he could not dispute the aforesaid contentions of counsel for the applicant.

11. Upon due consideration of the facts and circumstances of the case, the submissions of counsel for the parties, F.I.R. as also the fact that the applicant has not been previously convicted for any offence and he is in jail since 03.12.2025 and also the chances of conviction of the applicant in the instant case as well as the fact that the family members of the victim have now accepted the relationship of the victim and applicant and are ready to solemnize their marriage, this Court finds that the present applicant is liable to be allowed. Accordingly, it is **allowed**.

12. Let the applicant- **Shivam @ Shubham Mishra** be released on bail in the

aforesaid case crime number on his furnishing personal bond of Rs. 25,000/- and two reliable sureties (one of family member/close relative) each of the like amount to the satisfaction of the court concerned subject to following conditions :-

- (i) The applicant will cooperate with the prosecution during trial.
- (ii) The applicant will not tamper with the evidence during trial.
- (iii) The applicant will not pressurize/intimidate the prosecution witness(es).
- (iv) The applicant shall not commit an offence.
- (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 him from disclosing such facts to the court or to any police officer or tamper with the evidence.
- (vi) The applicant shall remain present before the trial court on each date fixed, either personally or through counsel.
- (vii) The applicant will not seek any adjournment on the dates fixed for evidence when the witnesses are present in court.
- (viii) The applicant shall remain present, in person, before the trial court on the dates fixed for recording of statement under Section 313 Cr.P.C.

13. In case of default of above conditions it shall be open for the trial court to treat it as abuse of liberty of bail and pass orders in accordance with law.

14. As this order relates to enlargement of the applicant on bail, it is clarified that observations made in this order shall have no bearing on the merits of the case and the trial court shall not be influenced by any observations made in this order.

March 17, 2026
Arun/-

(Saurabh Lavania,J.)