



2026:AHC-LKO:21713

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

CRIMINAL MISC. BAIL APPLICATION No. - 2172 of 2026

Jagdish

.....Applicant(s)

Versus

State Of U.P. Thru. Prin. Secy. Home Lko. And
Another

.....Opposite
Party(s)

Counsel for Applicant(s)	:	Jay Kumar Soni, Nevedita Gupta
Counsel for Opposite Party(s)	:	G.A.

Court No. - 13

HON'BLE MANISH KUMAR, J.

1. Heard learned counsel for the applicant and learned AGA for the State.
2. By means of this application, the applicant, who is involved in Case Crime No.0634/2025, Under Section 64(2)(K) BNS, 2023, Police Station - Gosainganj, District - Lucknow is seeking enlargement on bail during the trial.
3. The F.I.R. dated 05.12.2025 has been lodged against the applicant under Sections 65(2)(K) BNS, 2023, [Section 376(B) IPC] and Section 5K and 6 of POCSO Act, 2012, alleging therein that on 04.12.2025 when the sister of the informant, who is said to be mentally unfit, had not come back home for a long time then the wife of brother -Lavkus of the informant had gone to search the victim and she found that the applicant was forcibly outraging the modesty of the victim, the video of the same has been made by her.
4. The police after investigation has filed chargesheet only under Section 64(2)K BNS and dropped Section 5(K)6 of the POCSO Act, 2012.
5. Learned counsel for the applicant has submitted that the applicant has falsely been implicated in the present case for outraging the modesty of the alleged victim showing her as mental unfit and minor in the F.I.R. just to make the offence against the applicant very serious and grievous.

6. It is further submitted that during investigation on the basis of the permissible document for ascertaining the age of the victim i.e. the School Register, where the victim was studying, the date of birth of the alleged victim was found 07.03.2006 and at the time of alleged incident she was 19 years old, hence the provision of POCSO Act has been dropped.

7. It is further submitted that there is no evidence collected by the police during investigation regarding the alleged mental condition of the victim and the medical report does not corroborate with the ocular evidence of committing the offence of outraging the modesty of the alleged victim.

8. It is further submitted that there is no criminal history of the applicant and he is in jail since 07.12.2025.

9. Learned A.G.A. on the basis of the instruction received has vehemently opposed the prayer for grant of bail and has submitted that the applicant has been made accused after investigation for outraging the modesty of the alleged victim, who is mentally unfit but unable to dispute the submission made by the learned counsel for the applicant, particularly, the medical report of the alleged victim as well as the fact that except the statements collected during investigation, there is no other evidence found during investigation regarding mental illness of the alleged victim.

10. Having heard learned counsel for the parties and having perused the material available on record; considering the fact that the medical report of the alleged victim does not corroborate with the allegation of sexual assault and the age of the victim has prima facie wrongly been mentioned in the F.I.R. just to make the offence serious so as to attract the provisions of POCSO Act against the applicant. Prima facie, the alleged victim is major as per school records and nothing has been filed alongwith the chargesheet regarding the mental condition of the alleged victim. As per video which is part of the record made by her sister-in-law, there is only the allegation that on seeing her sister-in-law, she started putting her lower.

11. Considering all facts and circumstances as discussed, the prosecution story does not inspire confidence, it is a fit case in which the applicant may be enlarged on bail.

12. Accordingly, the present bail application is allowed.

13. Let the applicant **Jagdish** be released on bail in the aforesaid case crime number on 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 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.

14. 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.

15. 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.

(Manish Kumar,J.)

March 26, 2026

S. Kumar