



2026:AHC:53890

HIGH COURT OF JUDICATURE AT ALLAHABAD

JAIL APPEAL No. - 52 of 2026

Kabool

.....Appellant(s)

Versus

State of U.P.

.....Respondent(s)

Counsel for Appellant(s)	:	Dharmendra Kumar Chaubey, Pravin Kumar Tiwari, Shivam Yadav
Counsel for Respondent(s)	:	A.G.A.

Court No. - 93

HON'BLE MRS. VANI RANJAN AGRAWAL, J.

Order on Bail/Suspension of Sentence Application u/s 389(1) Cr.P.C.

1. Counter affidavit filed by learned A.G.A. is taken on record.
2. Heard Sri Dharmendra Kumar Chaubey, learned counsel for appellant/applicant and Sri Rahul Asthana, learned AGA for State.
3. This Criminal appeal under Section 374 (2) of the Criminal Procedure Code has been preferred against the order dated 8.12.2023, passed by learned Additional Sessions Judge/Special Judge (POCSO-II), Gautam Budh Nagar in Special Sessions Trial No.277 of 2022 (State vs. Jasveer and others) arising out of Case Crime No.522 of 2021, under Sections 363, 366-Ka, 368, 370-Ka, 376-Ka I.P.C. and Sections 3/4 and 16/17 of Protection of Children From Sexual Offences Act, 2012, Police Station- Badalpur, District- Gautam Budh Nagar.
4. By means of this application, the appellant-applicant seeks suspension of sentence and grant of bail.
5. It has been submitted by learned counsel for the appellant-applicant that the appellant is innocent and has been falsely implicated. It has been further submitted that the conviction and sentence imposed by the learned trial court is against the weight of evidence on record. The trial court has misread the evidence on record and convicted the appellant. The prosecution has not been able to prove its case beyond reasonable doubt. It is further submitted that the allegation of rape has been levelled against the co-accused Jasveer. It is further submitted that the victim is aged about 16 years and was recovered from the house of the complainant. It is further submitted that the co-accused namely Sunil, Pooja and Kiran have already been enlarged on

bail by coordinate Bench of this Court vide orders dated 7.5.2024, 8.5.2024 and 7.5.2024 passed in Criminal Appeal Nos.2669 of 2024, 136 of 2024, 383 of 2024, a copy of said orders has been annexed as annexure No.2 to the application. The appellant claims parity. It is further submitted that the appellant was on bail during trial and has never misused the liberty of bail. It is further submitted that the appellant has no criminal history. The appellant is in jail since 8.12.2023. Since there is no likelihood of early hearing of the appeal in near future, the appellant may be released on bail pending appeal. Besides the above submissions, learned counsel for the appellant has also tried to touch upon at length the circumstances which led to the false implication of accused - appellant.

6. On the other hand, learned AGA vehemently opposed the bail application.

7. I have considered the rival submissions made by learned counsel for the parties and have gone through the entire record including the impugned judgment.

8. Having regard to the facts and circumstances of the case, sentence awarded to the appellant, the evidence available on record and the findings recorded by the trial court thereon and considering the period of incarceration of the appellant, without further commenting on the merits of the case, I am inclined to release the appellant on bail.

9. Let the applicant/appellant namely **Kabool** 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 following conditions :-

(i) The appellant/applicant shall cooperate in the early disposal of appeal without seeking any adjournment.

(ii) The appellant/applicant shall not indulge in any criminal activity or commission of any crime after being released on bail.

(iii) The appellant/applicant shall deposit the entire amount of fine imposed against him by the learned trial court vide impugned judgment and order dated 8.12.2023 passed by the learned trial Court within a period of four weeks from the date he is released on bail under this order.

10. In case of breach of any of the above conditions, the bail granted to applicant-appellant under this order shall stand automatically cancelled and he shall be taken into custody at once to serve out the sentence awarded by trial Court.

11. The sentence awarded to applicant-appellant shall also remain suspended during the pendency of this appeal.

12. On acceptance of bail bond and personal bonds, the lower court shall transmit photostat copies thereof to this Court for being kept on record.

Order on Appeal

13. Office is directed to send reminder to the learned District Judge concerned for transmission of trial Court record.

14. List this appeal for hearing in due course.

March 17, 2026

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(Mrs. Vani Ranjan Agrawal,J.)