



2026:AHC-LKO:19377

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

CRIMINAL APPEAL No. - 237 of 2026

Mohd. Javed

.....Appellant(s)

Versus

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

.....Respondent(s)

Counsel for Appellant(s)	:	Anamika Singh
Counsel for Respondent(s)	:	G.A., Alok Kumar Tripathi

Court No. - 28

HON'BLE PRAMOD KUMAR SRIVASTAVA, J.

Counter affidavit filed today on behalf of opposite party no. 2 is taken on record.

Heard Ms. Anamika Singh, learned counsel for the appellant, Sri Alok Kumar Tripathi, learned counsel appearing for opposite party no. 2 and learned AGA for the State as well as perused the record.

The present criminal appeal under Section 14-A (2) Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act has been preferred against the impugned order dated 17.01.2026 passed by learned Special Judge, SC/ST Act, Pratapgarh in Bail Application No. 4849 of 2025, arising out of FIR No. 297 of 2025, under Sections 64(2)(M), 352, 351(3), 126(2) and 308(3) of BNS and Section 3(1)(ba) 3(1)(da), 3(1)(dha), 3(2)(v), 3(2)(va) of SC/ST Act, Police Station Jethwara, District Pratapgarh, whereby the bail application of the appellant has been rejected.

Learned counsel for the appellant submits that the appellant has been falsely implicated in the present case. She next submits that the FIR of the alleged incident was lodged with inordinate delay of 5 years. She further submits that the prosecutrix is aged about 22 years 5 moths, as her date of birth is 20.07.2003. She next submits that as per medical report, there is no external or internal injury found on the person of the prosecutrix. She further submits that the prosecutrix in

her statement recorded under Section 180 of BNSS has stated that she was having love affair with the appellant for last five years. Learned counsel next submits that the case was initially registered under the POCSO Act but during the course of investigation, the POCSO Act has been dropped. She next submits that there is no recovery of any alleged video clip. She next submits that the appellant has no criminal history and he is languishing in jail since 13.12.2025 and in case the appellant is enlarged on bail, he shall not misuse the liberty of bail and he shall also fully cooperate with the trial. He has further submitted that there is no possibility of the appellant to intimidate or pressurize the witnesses or any other persons acquainted with the facts of the present case.

For the aforesaid reasons, learned counsel for the appellant submits that the instant criminal appeal deserves to be allowed and the impugned order may be set aside and consequently, the appellant deserves to be enlarged on bail.

Per contra, learned AGA for the State as well as learned counsel appearing for opposite party no. 2 have vehemently opposed the prayer for bail by submitting that the appellant has committed rape upon the victim and he made the video clip of the the offence and has given threat to make the same viral and, as such, the appellant is not entitled to be enlarged on bail and the instant criminal appeal deserves to be dismissed. However, they have been unable to dispute the other factual submissions advanced by the learned counsel for the appellant.

Considering the submissions of learned counsel for the parties and after perusal of material available on record, including the allegations made in the FIR, it is apparent that FIR of the alleged incident was lodged with inordinate delay of 5 years; as per date of birth the prosecutrix is aged about 22 years 5 moths; in the medical examination, no external or internal injury found on the person of the prosecutrix; the prosecutrix in her statement under Section 180 of BNSS has stated that she was having love affair with the appellant for last five years; initially the case was registered under the POCSO Act

but during the course of investigation, the POCSO Act has been dropped; there is no recovery of alleged video clip; appellant has no criminal history and he is languishing in jail since 13.12.2025 and he has undertaken that in case he is enlarged on bail, he shall not misuse the liberty of bail and will cooperate with the trial and without expressing any opinion on merit, this Court is of the view that the learned court below has failed to appreciate the material available on record, thus, the order passed by the court below is liable to be set aside.

Accordingly, the appeal is **allowed**. Consequently, the impugned order dated 17.01.2026 passed by learned Special Judge, SC/ST Act, Pratapgarh in Bail Application No. 4849 of 2025, arising out of FIR No. 297 of 2025, under Sections 64(2)(M), 352, 351(3), 126(2) and 308(3) of BNS and Section 3(1)(ba) 3(1)(da), 3(1)(dha), 3(2)(v), 3(2)(va) of SC/ST Act, Police Station Jethwara, District Pratapgarh, is hereby set aside.

Let the appellant-**Mohd. Javed** be released on bail in the aforesaid case crime number on his furnishing personal bond and two sureties each in the like amount to the satisfaction of the court concerned, subject to following conditions:

- (i) The appellant shall cooperate with the prosecution during trial.
- (ii) The appellant shall not tamper with the evidence during trial
- (iii) The appellant shall not pressurize/intimidate the prosecution witness(s).
- (iv) The appellant shall not commit an offence.
- (v) The appellant 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 appellant shall remain present before the trial court on each date fixed, either personally or through counsel.

(vii) The appellant shall not seek any adjournment on the dates fixed for evidence when the witnesses are present in court.

(viii) The appellant shall remain present, in person, before the trial court on the dates fixed for recording of statement under Section 313 Cr.PC.

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

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

March 17, 2026

kkv/

(Pramod Kumar Srivastava,J.)