



2026:AHC:124340

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL No. - 5449 of 2026

Suresh

.....Appellant(s)

Versus

State of U.P. and Another

.....Respondent(s)

Counsel for Appellant(s)	:	Dhananjay Pratap Singh, Ram Krishna Paramhans Singh
Counsel for Respondent(s)	:	G.A., Vinay Kumar Tripathi

Court No. - 1

HON'BLE MADAN PAL SINGH, J.

1. Heard learned counsel for the appellant, learned counsel for opposite party no.2, learned counsel for the the State and perused the record.

2. This criminal appeal under Section 14A(2) of SC/ST (Prevention of Atrocities) Act, 1989 has been filed by the appellant-Suresh with the prayer to set-aside the impugned bail rejection order dated 4th May, 2026 passed by the Special Judge (S.C./S.T.) Act, Hathras in Bail Application No. 444 of 2026 (Subash Vs. State of U.P.) arising out of Case Crime No. 058 of 2026 under Sections 376 (1) I.P.C. and Sections 3 (2) (V) of S.C./S.T. Act, Police Station- Hasaayan, District-Hathras and with a further prayer to release the appellant on bail in the aforesaid case.

3. The FIR of the matter was lodged on 23rd March, 2026 at 20:08 hrs by the prosecutrix against the appellant-Suresh under Section 69 of B.N.S. which has been registered as aforementioned Case Crime No. 058 of 2026 alleging therein that from 8th May, 2018, the prosecutrix was in contact of the appellant as they were working together in Madarshan Company at Noida and they lived together and the physical relations were also established between them. Whereafter the appellant proposed the prosecutrix to marry him then the prosecutrix replied that if he is ready to marry her, she will have no problem on which the he will marry her very soon. After that the prosecutrix informed her family about her marriage with the appellant. It is further alleged that when the prosecutrix asked the appellant Suresh to marry her quickly, then he kept on making excuses for the last seven years and kept on deceiving her that he will marry her soon, after that the prosecutrix stayed appellant's house in village- Bhankuri, where also the appellant had established physical relations with her, after that when the health of the prosecutrix deteriorated she came back to her house. After lodging of the first information report, the investigation proceeded and during the investigation, the offence under Section 376 (1)

I.P.C. has been levelled against the appellant after removing Section 69 of B.N.S.

4. Learned counsel for the appellant submitted that at the time when the prosecutrix met with the appellant for the first time i.e. 8th May, 2018, she was 19 years of age as per the her statements recorded under Section 183 B.N.S. whereas as per the her statement recorded under Section 180 B.N.S. she is 27 years of age. As per the version of the first information report as well as statements of the prosecutrix under Sections 180 and 183 B.N.S., the prosecutrix was in relation with the appellant for seven years on her own free will and between these period she had never raised any alarm or made any complaint anywhere about the false promise of marriage on the part of the appellant. The prosecutrix had knowledge about the fact that the appellant had already married and divorce from his first wife is pending. Even though the aforesaid fact was in her knowledge, the prosecutrix had started living with the appellant as living relationship. Since the prosecutrix is major, she was known the pros and cons of the aforesaid living relationship with the appellant. The relationship between the appellant and the prosecutrix is consensual in nature. As such, no case under Section 376 (1) I.P.C. is made out against the appellant. In support of his case, learned counsel for the appellant has placed reliance upon the judgments of the Apex Court in the cases of **Pramod Suryabhan Pawar vs The State Of Maharashtra**, reported in *AIR 2019 S C 4010*, **Mahesh Damu Khare Vs. The State of Maharashtra & Others**, reported in *2024 SCC OnLine SC 347*, **Deepak Gulati v. State of Haryana**", reported in *AIR 2013 SC 2071* and **Nitin B. Nikhare Vs. The State of Maharashtra & Another in Criminal Appeal No(S).....of 2025 arising out of SLP (Crl.) No. 1889 of 2024** decided on *21st January, 2025*, in paragraph no. 6. *Except the present and another which has been instituted by the first wife of the appellant under Section 498-A etc. I.P.C., the appellant has no criminal history and is in jail since 25th May, 2026. There is no whisper in the first information report as well as in the statements of the prosecutrix under Sections 180 and 183 B.N.S. about any caste indicated words have been used by the appellant against the prosecutrix. Therefore, no case under the S.C./S.T. Act is made out against the appellant also.*

5. Per contra, learned counsel for the State opposed the appeal and prayer for bail.

6. After having heard learned counsels for the parties and perusing the records, it is evident that as per first information report and the statements of the prosecutrix under Sections 180 and 183 B.N.S. the relationship between the appellant and the prosecutrix appears to be consensual in nature.

7. Looking to the facts and circumstances of this case, the nature of evidence and also the absence of any convincing material to indicate the possibility of tampering with the evidence, this Court is of the view that the appellant may be enlarged on bail.

8. Let the appellant-Suresh, 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 which are being imposed in the interest of justice:-

i) The appellant will not tamper with prosecution evidence and will not harm or harass the victim/complainant in any manner whatsoever.

ii) The appellant will abide the orders of court, will attend the court on every date and will not delay the disposal of trial in any manner whatsoever.

(iii) The appellant shall file an undertaking to the effect that he shall not seek any adjournment on the date fixed for evidence when the witnesses are present in court. In case of default of this condition, it shall be open for the trial court to treat it as abuse of liberty of bail and pass orders in accordance with law.

(iv) The appellant will not misuse the liberty of bail in any manner whatsoever. In case, the appellant misuses the liberty of bail during trial and in order to secure his presence proclamation under section 84 BNSS/82 Cr.P.C., may be issued and if appellant fails to appear before the court on the date fixed in such proclamation, then, the trial court shall initiate proceedings against him, in accordance with law, under section 209 BNS/174-A I.P.C.

(v) The appellant shall remain present, in person, before the trial court on dates fixed for (1) opening of the case, (2) framing of charge and (3) recording of statement under Section 251 BNSS/313 Cr.P.C. If in the opinion of the trial court absence of the appellant is deliberate or without sufficient cause, then it shall be open for the trial court to treat such default as abuse of liberty of bail and proceed against him in accordance with law and the trial court may proceed against him under Section 269 BNS/229-A IPC.

(vi) The trial court may make all possible efforts/endeavour and try to conclude the trial expeditiously after the release of the appellant.

9. The identity, status and residential proof of sureties will be verified by court concerned and in case of breach of any of the conditions mentioned above, court concerned will be at liberty to cancel the bail and send the appellant to prison.

10. Accordingly, the appeal succeeds and the same stands allowed.

11. The impugned order dated 4th May, 2026 passed by the Special Judge (S.C./S.T.) Act, Hathras in Bail Application No. 444 of 2026 (Subash Vs. State of U.P.) arising out of Case Crime No. 058 of 2026 under Sections 376 (1) I.P.C. and Sections 3 (2) (V) of S.C./S.T. Act, Police Station-Hasaayan, District-Hathras is hereby set aside.

June 1, 2026
Sushil/-

(Madan Pal Singh,J.)