



2026:AHC:127452

HIGH COURT OF JUDICATURE AT ALLAHABAD
CRIMINAL MISC. BAIL APPLICATION No. - 19939 of 2026

Nilay Dhar Dubey

.....Applicant(s)

Versus

State of U.P.

.....Opposite
Party(s)

Counsel for Applicant(s)	:	Arvind Prabodh Dubey
Counsel for Opposite Party(s)	:	G.A., Manoj Kumar Tiwari

Court No. - 45

HON'BLE VIVEK KUMAR SINGH, J.

1. Supplementary affidavit filed today is taken on record.
2. Heard Sri Arvind Prabodh Dubey, learned counsel for the applicant, Sri Manoj Kumar Tiwari, learned counsel for the first informant and the learned A.G.A. for the State of U.P.
3. The instant bail application has been filed seeking release of the applicant on bail in Case Crime No.49 of 2025, under Sections 64, 75, 85, 115(2), 352 BNS and Section 3/4 D.P. Act, Police Station- Mahila Thana, District- Gorakhpur.
4. Learned counsel for the applicant submits that the applicant is innocent and has been falsely implicated in the present case. FIR was lodged by the victim/first informant on 16.10.2025, wherein no allegation of rape was levelled against the applicant. The FIR was registered under Sections 85, 115(2), 352 and 75 of the BNS, as well as Section 3/4 of the D.P. Act. During the course of investigation, the victim, in her statement recorded under Section 183 BNSS, alleged that she was subjected to rape by the applicant on 12.05.2025, However, no such allegation was made in the FIR dated 16.10.2025. The applicant is the brother-in-law (devar) of the victim and has been falsely implicated on account of the matrimonial dispute between the victim and his brother. A matrimonial dispute has been converted into a criminal offence. The allegation of rape was falsely levelled against the applicant in order to keep him behind bars for a longer period. The applicant has no criminal history to his credit. Learned

counsel for the applicant further submits that applicant has been languishing in jail since 11.05.2026 and in case, he is released on bail, he will not misuse the liberty of bail and will cooperate in trial.

5. Per contra, learned A.G.A. and learned counsel for the first informant have opposed the prayer for grant of bail to the applicant and submitted that there is ample evidence against the applicant regarding his involvement in the offence, therefore, he is not entitled to be released on bail.

6. Having considered the rival submissions advanced by learned counsel for the parties, the nature of accusations, the evidence brought on record, the period of incarceration undergone by the applicant, the absence of any criminal antecedents, and without expressing any opinion on the merits of the case, this Court finds that the applicant has made out a case for grant of bail.

7. Accordingly, the bail application is **allowed**.

8. Let the applicant- **Nilay Dhar Dubey**, who is involved in the aforementioned case crime be released on bail on his furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned subject to following conditions. Further, before issuing the release order, the sureties be verified.

(i) The applicant 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.

(ii) The applicant shall remain present before the Trial Court on each date fixed, either personally or through his counsel. In case of his absence, without sufficient cause, the Trial Court may proceed against him under Section 229-A IPC/ 269 B.N.S.

(iii) In case, the applicant misuses the liberty of bail during trial and in order to secure his presence proclamation under Section 82 Cr.P.C./ 84 B.N.S.S., may be issued and if applicant 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 174-A IPC/ 209 B.N.S.

(iv) The applicant 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 313 Cr.P.C./ 351 of B.N.S.S. If in the opinion of the Trial Court absence of the applicant 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.

9. In case of breach of any of the above conditions, it shall be a ground for cancellation of bail.

10. It is made clear that observations made in granting bail to the applicant shall not in any way affect the learned trial Judge in forming his independent opinion based on the testimony of the witnesses.

(Vivek Kumar Singh,J.)

June 16, 2026
Radhika