



2026:AHC:127442

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. BAIL APPLICATION No. - 19936 of 2026

Chhotu @ Rishu

.....Applicant(s)

Versus

State Of U.P. And 3 Others

.....Opposite
Party(s)

Counsel for Applicant(s)	:	Vijay Bahadur Shivhare
Counsel for Opposite Party(s)	:	G.A.

Court No. - 45

HON'BLE VIVEK KUMAR SINGH, J.

1. Heard Sri Sandeep Mishra, Advocate holding brief of Sri Vijay Bahadur Shivhare, learned counsel for the applicant and the learned A.G.A. for the State of U.P.

2. Based on the police report dated 02.06.2026, learned A.G.A. submits that notice regarding the pendency of the bail application has been served upon the first informant/opposite party no. 2. Despite service of notice, no one has appeared on behalf of opposite party no. 2 to contest the present bail application.

3. The instant bail application has been filed seeking release of the applicant on bail in Case Crime No.107 of 2025, under Sections 137(2), 87, 64(1), 351 (3) B.N.S. (corresponding sections 363, 366, 376, 506 IPC) & Section 4 of POCSO Act, Police Station- Biwar, District- Hamirpur.

4. Learned counsel for the applicant submits that the applicant is innocent and has been falsely implicated in the present case. As per the prosecution case, the victim was about 17 years of age and was a consenting party. She stated in her statement recorded under Sections 180 and 183 BNSS that she was in love with the applicant, left her house on her own will, and thereafter marriage was solemnized between them in a temple. No offence of rape was committed by the applicant, and after the solemnization of marriage, the applicant and the victim lived together as husband and wife. The victim has been examined in the trial court as PW-2 on 04.05.2026 and she did not support the prosecution case; rather, she stated

that she forced the applicant to marry her and that the applicant, under compulsion, solemnized the marriage. No physical relationship was established between the applicant and the victim on 04.05.2026. The applicant has no criminal history to his credit. It is further submitted that the applicant has been languishing in jail since 25.10.2025 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. has 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- **Chhotu @ Rishu**, 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