



2026:AHC:128653

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. BAIL APPLICATION No. - 20622 of 2026

Patiraj

.....Applicant(s)

Versus

State of U.P.

.....Opposite
Party(s)

Counsel for Applicant(s)	:	Riyaz Ahmad, Satish Sharma
Counsel for Opposite Party(s)	:	G.A.

Court No. - 69

HON'BLE SANTOSH RAI, J.

1. Heard learned counsel for the applicant, learned AGA for the State-respondent and perused the record.
2. This bail application has been moved on behalf of accused-applicant, **Patiraj** seeking enlargement on bail in Case Crime No.81 of 2025 under Sections 64 and 61(2) BNS, P.S.- Kapsethi, District- Varanasi, during pendency of trial.
3. Tersely, as per the prosecution version, the accused-applicant Patiraj and co-accused Funai, who are named in the FIR, committed rape upon the victim.
4. Learned counsel for the applicant submits that the applicant has not committed any offence as alleged in the FIR. He further submits that the incident is alleged to have occurred on 20.06.2025, whereas the FIR was lodged after two days, i.e., on 22.06.2025. It is contended that although both the applicant, Patiraj, and co-accused Funai are named in the FIR lodged by the victim herself, and specific allegation of rape have been levelled against the applicant in the FIR and in the statement of the victim recorded under Section 180 BNSS, however, in her statement recorded under Section 183 BNSS before the Judicial Magistrate, she departed from her earlier version and stated that co-accused Funai had taken her away and committed rape upon her, and no specific allegation of rape was made against the accused-applicant Patiraj. Furthermore, the accused-applicant has no criminal history and is in jail since 26.06.2025.

Furthermore, as per submission of learned AGA, chargesheet has already been filed in this case. Submission is that the conclusion of trial will take sufficiently long and there is no likelihood of his fleeing from course of justice or tampering with evidence in case of release on bail. Hence, bail has been prayed for.

5. Per contra, learned A.G.A. has opposed the prayer for bail of the applicant by contending that the innocence of the applicant cannot be adjudged at pre-trial stage, therefore, he does not deserve any indulgence. In case the applicant is released on bail, he will again indulge in similar activities and will misuse the liberty of bail.

6. Having considered the submissions that although the accused-applicant Patiraj is specifically named in the FIR and allegations of rape have been levelled against him therein, which were also reiterated by the victim in her statement under Section 180 BNSS, however, the victim, in her statement recorded under Section 183 BNSS, resiled from her earlier version and stated that co-accused Funai had committed rape upon her. Thus, there exists a material contradiction between the allegations made in the FIR and the statement under Section 180 BNSS on one hand, and the statement recorded under Section 183 BNSS on the other hand. As per submission of learned AGA, chargesheet has already been filed in this case and, thus, there is no reasonable possibility of intimidating and pressurizing the prosecution witnesses. Accused-applicant has no criminal history and is in jail since 26.06.2025 and keeping in view the uncertainty regarding conclusion of trial, larger mandate of the Article 21 of the Constitution of India, considering paragraph no.53 of Apex Court in case of ***Manish Sisodia vs. Directorate of Enforcement 2024 (SC) LawSuit 677***, dictum of Apex Court in ***Union of India vs. K.A. Najeeb (2021) 3 SCC 713*** & ***Satender Kumar Antil vs. Central Bureau of Investigation & Anr. (2022) 10 SCC 51*** and without expressing any opinion on the merits of the case, let the applicant involved in the aforesaid crime be released on bail on his furnishing personal bond and two sureties each in the like amount to the satisfaction of the court concerned with the following conditions that:-

(i) The applicant shall not tamper with the evidence or threaten the witnesses.

(ii) The applicant shall file an undertaking to the effect that he shall not seek any adjournment on the dates fixed for evidence when the witnesses are present in Court.

(iii) The applicant shall remain present before the trial court on each date fixed, either personally or as directed by the court concerned.

(iv) The applicant shall remain present in person before the Trial Court on the dates fixed for (i) opening of the case, (ii) framing of charge and (iii) recording of statement of accused personally to explain circumstances appearing in the evidence against him.

(v) In case the applicant misuses the liberty of bail during trial and in order to secure his presence, the trial court shall initiate proceedings against him strictly in accordance with law.

7. In case of breach of any of the above conditions, it shall be a ground for cancellation of bail by the trial court.

8. Identity and residence proof of the applicant and sureties be verified by the court concerned before the bonds are accepted.

(Santosh Rai,J.)

June 23, 2026

Ankit.