

**IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL
ORIGINAL JURISDICTION**

Dated: Nainital: the 31st day of March, 2005

Bail Application No. 200 of 2005

Order on the Bail Application of accused

CRIMINAL SIDE

Samshad
S/o Rashid Ahmad
R/o Village-Jaurasi
Police Station- Kotwali Roorkee
District-Haridwar

.....Applicant

Versus

State of Uttaranchal

.....Opposite Party

Arising out of Case Crime No. 289 of 2004
U/Ss 363, 366, 376 I.P.C.
Police Station- Kotwali Roorkee
District-Haridwar

Hon'ble B.C. Kandpal, J.

The applicant has applied for bail in case crime no. 289 of 2004, U/Ss 363, 366, 376 I.P.C., Police Station- Kotwali Roorkee, District-Haridwar.

Heard Sri Rajendra Singh, learned counsel for the applicant, Sri Manish Arora, learned counsel for the complainant, learned A.G.A. and perused the record.

The F.I.R. shows that it was Maherban (non-applicant) who subjected Km. Amir Bano to rape. Next day i.e. 11.10.2004, statement of the prosecutrix was recorded u/s 161 Cr.P.C. by the investigating Officer and she also disclosed that she was subjected to rape by Maherban. It is important to mention here that the prosecutrix did not disclose the name of the accused/applicant in her statement recorded u/s 164 Cr. P.C.

Learned counsel for the complainant has put a vehement stress on this aspect of the matter that the age of the prosecutrix is only 12 years and she has named the applicant in her statement recoded u/s 164 Cr. P.C.

It is worthy to mention here that the statement was recorded u/s 164 Cr.P.C. on 14.10.2004, i.e. four days after the occurrence.

Without commenting on the merit of the case, it is a fit case for bail at this stage.

Let the applicant, Samshad be released on bail on his executing their personal bond and furnishing two sureties each in the like amount to the satisfaction of J.M. Roorkee.

(B.C. Kandpal, J.)

**March 31, 2005
Shiv**