



2025:AHC-LKO:51257

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

CRIMINAL MISC. BAIL APPLICATION No. - 9169 of 2024

Sandeep Nishad @ Deepu Nishad And Another

.....Applicant(s)

Versus

State Of U.P. Thru. Prin. Secy. Home Lko. And
Ors.

.....Opposite
Party(s)

Counsel for Applicant(s) : Sunil Kumar Misra, Narsingh Yadav,
Prashant Dubey, Sadhana Yadav
Counsel for Opposite Party(s) : G.A., Santosh Kumar Singh

Court No. - 12

HON'BLE KARUNESH SINGH PAWAR, J.

1. Heard learned counsel for the applicants and learned A.G.A. for the State.
2. None appears for the complainant although notice is served.
3. The present bail application has been filed by accused-applicants seeking bail in Case Crime No.36 of 2024, under Sections 376-D, 506 I.P.C. and Sections 3/4 of the POCSO Act, P.S. Tarun, District Ayodhya.
4. In the prosecution case it is alleged that minor daughter of the informant on 03.02.2024 while went to graze the goats at about 04:00 pm, the accused persons have dragged her in the sugarcane field while gagging her mouth and raped her one by one and also made obscene video of the victim.
5. Learned counsel for the applicants submits that no video as alleged in the F.I.R. has been recovered by the Investigating Officer. The victim has narrated an improbable story while giving statement under Sections 161 & 164 Cr.P.C. The statements are at variance. He submits that although incident is alleged to have taken place in the sugarcane field where victim was dragged by gagging her mouth however, in the medico legal examination, no external or internal injury has been found which is highly improbable as the incident took place in a sugarcane field. In the medico

legal examination report, no opinion has been given by the doctor. He submits that victim has been examined before the trial court, there is no chance of tampering the evidence. Applicants have no criminal history. He submits that applicants are in jail since 08.02.2024.

6. Learned A.G.A. has opposed the bail prayer however, submits that victim is 14-15 years old according to transfer certificate.

7. Rebutting the same, learned counsel for the applicants submits that transfer certificate cannot be a basis for assessing the age of the victim under Juvenile Justice Act. No ossification test of the victim has been conducted.

8. On due consideration to the submissions advanced, perusal of the record as also the fact that the applicants are languishing in jail since 08.02.2024, victim has been examined before the trial court, applicants have no criminal history, there is lack of corroborative evidence in support of the prosecution case such as medical etc. no video of the alleged offence has been recovered by the Investigating Officer, no radiological examination has been done and without expressing any opinion on merits of the case, I find it to be a fit case for enlarging the applicants on bail.

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

10. Let the applicants- *Sandeep Nishad @ Deepu Nishad* and *Ram Tilak Nishad* be released on bail in aforesaid case crime number subject to their furnishing a personal bond and two reliable sureties each in the like amount to the satisfaction of the trial court concerned with the following conditions:

(i) The applicants will not tamper with the evidence during the trial.

(ii) The applicants will not pressurize/ intimidate the prosecution witness.

(iii) The applicants shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence.

(iv) The applicants shall file an undertaking to the effect that they shall not seek any adjournment on the dates 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.

(v) The applicants shall remain present before the trial court on each date fixed, either personally or through their counsel. In case of their absence, without sufficient cause, the trial court may proceed against them under Section 229-A of the Indian Panel Code (now Section 269 of BNS).

(vi) In case, the applicants misuse the liberty of bail during trial and in order to secure their presence proclamation under Section 82 Cr.P.C. (now Section 84 BNSS) is issued and the applicants fail to appear before the court on the date fixed in such proclamation, then, the trial court shall initiate proceedings against them, in accordance with law, under Section 174-A of the Indian Panel Code (now Section 209 BNS).

August 29, 2025

Saurabh Yadav/-

(Karunesh Singh Pawar,J.)