



2026:UHC:1380

Reserved on 24.02.2026

Delivered on 27.02.2026

**HIGH COURT OF UTTARAKHAND AT NAINITAL**

**First Bail Application No. 1156 of 2025**

Usman Khan .....Applicant

**Versus**

State Of Uttarakhand .....Respondent

-----  
**Presence:-**

Dr. Kartikey Hari Gupta, learned counsel for the applicant.

Mr. G.S. Sandhu, learned Additional Advocate General along with  
Mr. Deepak Bhardwaj, learned Brief Holder for the State.

Mr. Pankaj Singh Chauhan, learned counsel for the complainant.  
-----

**Hon'ble Mr. Alok Mahra, J.**

The present first bail application has been filed by the applicant Usman Khan, who is in judicial custody in connection with FIR No. 0021 of 2025 (Special Sessions Trial No. 41 of 2025), Police Station Mallital, District Nainital. The case has been registered under Sections 65(1), 351(1) B.N.S., Sections 3 & 4 of the Protection of Children from Sexual Offences Act, 2012 (POCSO) and Sections 3(1)(w)(i), 3(v)(ii) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (SC/ST Act). The applicant seeks release on bail.



2026:UHC:1380

2. As per the FIR dated 30.04.2025 lodged by the mother of the victim, the alleged incident took place on 12.04.2025 at about 6:30 p.m. It is alleged that the applicant lured the minor victim with ₹200/-, took her inside a red car parked in his garage, threatened her with a knife and committed rape. It is further alleged that the applicant threatened the victim not to disclose the incident to anyone. The matter was reported after the victim disclosed the incident to her mother.

3. Learned counsel for the applicant would submit that there is an unexplained delay of 18 days in lodging the FIR; that, the medical examination does not support the allegation of rape and no internal or external injuries were found; that, the CCTV footage of the relevant date does not show any red car being taken inside the garage; that, the garage was occupied with construction material and no car could be parked inside; that, the D.N.A. examination does not support the prosecution case.

4. He would further submit that this is not a case of sterling witness as there are inconsistencies in the statement of the victim and material contradiction with the statement of other prosecution witnesses examined



2026:UHC:1380

so far; that, the applicant is 71 years old, has no criminal history, and is in jail since 30.04.2025; that, charge-sheet has already been filed and the trial is likely to take considerable time to conclude. Therefore, it is prayed that the applicant be enlarged on bail.

5. In support of his case, he relied upon the judgment of Hon'ble Supreme Court in the case of Nirmal Premkumar and Another Vs. State Rep. by Inspector of Police 2024 SCC OnLine SC 260, Hon'ble Supreme Court has acquitted two teachers who were previously convicted under the POCSO Act for alleged sexual harassment of a minor student. The Supreme Court set aside the convictions upheld by the Madras High Court, citing material contradictions in the evidence, lack of corroboration, and "half-baked".

6. *Per contra*, learned Additional Advocate General for the State would vehemently oppose the bail application contending that during the course of investigation, the statement of the victim was recorded under Sections 180 and 183 of the B.N.S.S., wherein she has consistently supported the prosecution case. It is further submitted that the victim was medically examined on 30.04.2025. The medical examination



report notes injury marks on the neck of the victim and mild redness around the anal region. It is argued that these medical findings lend prima facie corroboration to the allegations made in the First Information Report and strengthen the prosecution case at the stage of consideration of bail.

7. Learned State counsel further submits that during investigation it has transpired that the applicant committed two separate incidents of sexual assault upon the victim at different places; that, the Investigating Officer has prepared separate site plans of both the places of occurrence. It is further contended that the offences alleged against the applicant are grave and heinous in nature; that, out of the total listed prosecution witnesses, two witnesses have already been examined before the trial court; that, the victim resides in the same locality as the applicant, and as per the statement of the examining Doctor, the victim is under fear and psychological distress. It is argued that if the applicant is released on bail, there exists a real and imminent apprehension that he may intimidate or influence the victim and other prosecution witnesses, thereby causing further trauma to the victim and



prejudicing the fairness of the trial.

8. Lastly, it is submitted by learned State counsel that the applicant is financially well-off, whereas the victim's family belongs to a weaker socio-economic background. In such circumstances, there exists a substantial likelihood of the applicant exerting influence, directly or indirectly, upon the witnesses and tampering with prosecution evidence. Therefore, having regard to the gravity of the offence, the stage of trial, the apprehension of witness intimidation, and the need to ensure a free, fair and impartial trial, it is urged that the applicant does not deserve to be enlarged on bail.

9. In support of the aforesaid submissions regarding the necessity of a fair trial and prevention of witness intimidation, reliance is placed upon the judgment of the Hon'ble Supreme Court in *Zahira Habibullah Sheikh Vs. State of Gujarat*, (2004) 4 SCC 158, wherein it has been held that a fair trial is the heart of criminal jurisprudence and includes fairness not only to the accused but also to the victim and society at large. The Court observed that denial of a fair trial is as much injustice to the accused as to the victim and the society, and that courts are duty-bound to



ensure that the trial proceeds uninfluenced by extraneous considerations. Reliance is also placed on State of Bihar v. Amit Kumar, (2017) 13 SCC 751, wherein the Hon'ble Apex Court held that while considering bail in serious offences, the Court must take into account the nature and gravity of the accusation, the possibility of tampering with evidence or influencing witnesses, and the larger interest of society.

10. Further reliance is placed upon Mahipal v. Rajesh Kumar, (2020) 2 SCC 118, wherein it was reiterated that grant of bail in serious offences must be exercised judiciously and the Court must consider whether there exists a prima facie case and whether release of the accused would prejudice a fair trial. On the strength of the aforesaid settled principles of law, learned State counsel submits that in the facts and circumstances of the present case, enlargement of the applicant on bail would adversely affect the fairness of the trial and the administration of justice.

11. Learned counsel for the complainant has supported the arguments made by the State and opposed the bail application. He submits that the victim's statement is clear and consistent, and at this



important stage of the trial, granting bail may put pressure on the complainant and other prosecution witnesses and could lead to intimidation.

12. Heard learned counsel for the parties and perused the record.

13. The allegations against the applicant are serious and relate to offences under the POCSO Act and the SC/ST Act. At the time of considering bail under Section 483 B.N.S.S., the Court is not required to closely examine contradictions, inconsistencies, or the detailed strength of the evidence. The Court only needs to see whether a prima facie case is made out based on the material collected during investigation. It is also not disputed that the trial has already started and two prosecution witnesses have been examined. Therefore, the case is at an advanced stage, and evidence is currently being recorded before the learned Trial Court.

14. Having regard to the gravity of the allegations, the nature and seriousness of the offence, the statement of the victim recorded during investigation, and the likelihood of the applicant influencing witnesses, and without expressing any opinion on the merits of the case, this Court is not inclined to grant bail to the



applicant at this stage.

15. Accordingly, the first bail application is dismissed.

16. Since the trial has already begun and prosecution witnesses are being examined, the learned Trial Court is requested to make every endeavor to conclude the trial as expeditiously as possible, preferably within three months. The trial court shall, as far as practicable, conduct the proceedings on a day-to-day basis. In view of the mandate akin to Section 309 Cr.P.C., once the examination of witnesses starts, it should ordinarily continue from day to day until the witnesses present are examined, unless special reasons are recorded in writing and the adjournments should not be granted routinely when witnesses are in attendance, and inconvenience of counsel cannot be treated as a valid ground for adjournment. At this advanced stage, any unnecessary delay would defeat the object of a speedy trial. The Trial Court is, therefore, directed to strictly adhere to the statutory mandate while proceeding with the case.

**(ALOK MAHRA,J.)**  
**27.02.2026**