

(2025) 08 AHC CK 0619
In the Allahabad High Court
Case No : Criminal Appeal No. 4122 Of 2025

Abdul Raseed

APPELLANT

Vs

State Of U.P. And Another

RESPONDENT

Date of Decision : 13-08-2025

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2025) 08 AHC CK 0619

Hon'ble Judges : Ajay Bhanot, J

Bench : Single Bench

Advocate : Ravindra Narayan Singh, Vishal Kashyap, Sundeep Agarwal

Final Decision : Dismissed

Judgement

Shekhar Kumar Yadav, J

Criminal Misc. Bail Application No.01 of 2025

1. The present criminal appeal under Section 14-A(2) Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act has been filed by the appellant to set aside the bail rejection orders dated 13.01.2025 and 05.02.2025 passed by Additional Sessions Judge/Special Judge (SC/ST Act) Kushinagar at Padrauna passed in 1st Bail Application No.3087 of 2024 in Case Crime No.393 of 2024, under Sections 147, 323, 376, 452, 504, 506 IPC and Section 3(1)(Da), 3(1)(ha) and 3(2) (V) SC/ST Act and 2nd Bail Application No.292 of 2025, under Section 376D IPC, Police Station Ahirauli Bazar, District Kushinagar.

2. Heard learned counsel for the appellant, the learned AGA for the State-respondent no.1 and perused the entire record. Despite service of notice, none has appeared on behalf of respondent no.2.

3. According to the prosecution case, on 10.05.2024 at about 6.30 pm in the evening when the informant was alone in her house, the accused persons, namely, Abdul Aziz and Abdul Rasheed entered into the house of the victim and

started abusing her. Both accused pushed the victim inside the house and closed the door from inside, thereafter, co-accused Abdul Aziz tore her cloths and threw her on the ground. It is further alleged that accused appellant started pressing the private part of the victim and started moving his finger inside her private part. It is further alleged that when the victim tried to shout, the accused Abdul Aziz pressed her mouth, thereafter, both the accused persons ran away from the spot giving threat.

4. Submission of learned counsel for the appellant is that the appellant is innocent and has been falsely implicated in this case. The appellant has not committed any offence as alleged in the impugned FIR. Further submission is that the prosecution story is totally false and fabricated. As per statement of the victim recorded under Sections 180 and 183 of BNSS, there are material contradictions in her statement. The victim is aged about 29 years. No any medical report is supported the prosecution story. Essential ingredients to constitute the offence under the SC/ST Act are lacking in the matter. Further submission is that trial has not been started as yet and there is no possibility of early conclusion of trial, hence, the appellant may be enlarged on bail. Appellant is languishing in jail since 26.11.2024 having no previous criminal history. Further submission is that the impugned order rejecting the bail application of the appellant suffers from infirmity and illegality warranting interference by this Court.

5. On the other hand, learned A.G.A. opposing the prayer for bail has submitted that the appellant committed the present offence having knowledge that the victim belonged to S.C./S.T. Community. There is no infirmity or illegality in the impugned order.

6. I have considered the rival submissions made by the learned counsel for the parties and have gone through the entire record including the impugned order carefully.

7. Having regard to the facts and circumstances of the case and keeping in view the nature of the offence, evidence, complicity of the accused, role assigned to the present appellant and the nature of injury, the Court is of the opinion that the appellant has made out a case for bail. The Court below erred in rejecting the bail application of the appellant. The impugned order suffers from infirmity and illegality and the same is liable to be set-aside and the appeal is liable to be allowed.

8. Accordingly, the appeal is allowed and the impugned order rejecting the bail application of the appellant is hereby set-aside.

9. Let the appellant- Abdul Raseed, involved in aforesaid case crime number be released on bail on 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 appellant will not tamper with the evidence during the trial.
- (ii) The appellant will not pressurize/ intimidate the prosecution witness.
- (iii) The appellant will appear before the trial court on the date fixed, unless personal presence is exempted.
- (iv) The appellant shall not commit an offence similar to the offence of which he is accused, or suspected, of the commission of which he is suspected.
- (v) The appellant 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.

10. In case of breach of any of the above conditions, the prosecution shall be at liberty to move bail cancellation application before this Court.