
(2025) 06 AHC CK 0579
In the Allahabad High Court
Case No : Criminal Appeal No. 2275 Of 2025

Anshu Kushwaha

APPELLANT

Vs

State Of U.P. And Another

RESPONDENT

Date of Decision : 19-06-2025

Acts Referred:

Code of Civil Procedure Act, 1908 — Order 1 Rule 10, Order 22 Rule 10
Hindu Succession Act, 1956 — Section 6
Transfer of Property Act, 1882 — Section 52
Evidence Act, 1872 — Section 114

Citation : (2025) 06 AHC CK 0579

Hon'ble Judges : Neeraj Tiwari, J

Bench : Single Bench

Advocate : Gaurang Dwivedi, Pranvesh, Ajay Sengar, Sanjay Agrawal

Final Decision : Allowed

Judgement

Sameer Jain, J

1. None appeared on behalf of opposite party no.2. even in revised call.
2. Heard Sri Nagendra Bahadur Singh, learned counsel for the appellant, and Sri Rajeev Dhar Dwivedi, learned Additional Government Advocate for the State-respondent.
3. This criminal appeal under Section 14-A(2) Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, has been filed by the appellant with a prayer to quash the order dated 05.03.2025, passed by learned Sessions Judge, Scheduled Caste and Scheduled Tribe (Prevention of Atrocities), Auraiya in Criminal Misc. Bail Application No. 248 of 2025 (Anshu Kushwaha Vs. State of U.P.), arising out of Case Crime No. 0047 of 2025, under Section 333, 69, 115(2), 89, 352, 351(2), 351(3) of the Bhartiya Nyay Sanhita & Section 3(2) (V) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, Police Station Kotwali, District Auraiya.

4. Learned counsel for the appellant submits, however as per allegation appellant firstly committed rape upon the opposite party no.2 and thereafter, prepared her obscene video and under the pretext of false promise of marriage sexually exploited her but entire allegation levelled against appellant is totally false.

5. He next submits, admittedly opposite party no.2 is major lady and from the FIR and her statements recorded under Section 180 and 183 B.N.S.S. it reflects she was consenting party and prima facie it appears to be a case of consensual relationship. He further submits however there is allegation that appellant also prepared obscene video of the opposite party no.2 but no such video of the opposite party no.2 is on record.

6. He next submits, appellant is not having any previous criminal history and in the present matter he is in jail since 19.01.2025.

7. He further submitted, therefore, the impugned order dated 05.03.2025 passed by the court concerned by which bail application of the appellant has been dismissed is illegal and is liable to be set aside and appellant is entitled to be enlarged on bail in the present matter.

8. Per contra, learned AGA opposed the prayer for bail but could not dispute the aforesaid facts.

9. I have heard both the parties and perused the record of the case.

10. However, as per allegation under the false promise of marriage appellant sexually exploited the opposite party no.2 and committed rape upon her and also prepared obscene video of opposite party no.2 but alleged obscene video of the opposite party no.2 is not on record to substantiate her allegation in this regard.

11. Further, admittedly, opposite party no.2 i.e. informant of the case is major lady and considering the nature of allegation levelled against the appellant prima facie present case appears to be a case of consensual relationship.

12. Further, appellant is not having any previous criminal history and in the present matter he is in jail since 19.01.2025.

13. Therefore, considering the facts and circumstances of the case, discussed above, in my view, impugned order dated 05.03.2025 by which bail application of the appellant has been dismissed by the court concerned is illegal and is liable to be set aside and appellant is entitled to be released on bail in the instant matter.

14. Accordingly, the instant appeal stands allowed and the impugned order dated 05.03.2025 passed by the court concerned is hereby set aside and without expressing any opinion on the merit of the case, appellant is directed to be enlarged on bail in the instant matter.

15. Let appellant Anshu Kushwaha, be released on bail in the aforesaid case on his furnishing a personal bond and two reliable sureties in the like amount to the satisfaction of the court concerned with the following conditions:

- (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.

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