

# Shiv Prakash Alias Sannata vs State Of U.P. And 3 Others on 1 April, 2025

**Author: Samit Gopal**

**Bench: Samit Gopal**

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Neutral Citation No. - 2025:AHC:44850

Court No. - 64

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 42533 of 2024

Applicant :- Shiv Prakash Alias Sannata

Opposite Party :- State Of U.P. And 3 Others

Counsel for Applicant :- Krishn Kumar, Praveen Shrivastav

Counsel for Opposite Party :- G.A.

Hon'ble Samit Gopal, J.

1. List revised.

2. Heard Sri Anupam Verma, learned counsel for the applicant, Sri Birendra Pratap Singh, learned counsel for the State and perused the material on record.

3. This bail application under Section 439 of Code of Criminal Procedure has been filed by the applicant-Shiv Prakash Alias Sannata, seeking enlargement on bail during trial in connection with Case Crime No.312 of 2018, under Sections 363, 366, 376, 354, 504, 506 IPC and 3/4 POCSO Act, registered at Police Station Mauranipur, District Jhansi

4. This is a second bail application. The first bail application of the applicant was rejected vide order dated 18.4.2022 passed by this Court passed in Criminal Misc. Bail Application No.54291 of 2021.
5. Learned counsel for the applicant submits that although he had sought time on 31.1.2025 to file supplementary affidavit but he does not now propose to file any such supplementary affidavit. He submits that the matter be heard and decided.
6. Notice was issued to the first informant vide order dated 3.12.2024. As per office report dated 25.1.2025, the report of the CJM, Jhansi has been received stating therein that notice has been served upon the first informant personally but no one appears on behalf of first informant even when the matter is taken up in the revised list despite service of notice.
7. Learned counsel for the applicant argued that the applicant has been falsely implicated in the present case. It is argued that in the trial the victim was examined as P.W.1 and perusal of the statement goes to show that she went out of her own sweet-will from the house. It has also been pointed out that the applicant is not having any criminal history as stated in para 14 of the affidavit and is in jail since 23.3.2019.
8. Per contra learned counsel for the State vehemently opposed the prayer for bail and argued that the trial is at an advance stage as the statement of the doctor has been recorded. The first bail application of the applicant was rejected by this Court on merits. The appreciation of the statement of the victim by this Court in the bail application may have an adverse effect in the trial. The bail application of the applicant be thus rejected.
9. After hearing the counsel for the parties and perusing the record, it is evident that this is the second bail application. The first bail application of the applicant was rejected by this Court vide order dated 18.4.2022, the said order reads as under:-

"Heard Sri Om Prakash, learned counsel for the applicant, Sri Ankit Srivastava, learned counsel for the State and perused the material on record.

This bail application under Section 439 of Code of Criminal Procedure has been filed by the applicant-Shiv Prakash @ Sannata, seeking enlargement on bail during trial in connection with Case Crime No.312 of 2018, under Sections 363, 366, 376, 354, 504, 506 IPC and 3/4 POCSO Act, registered at Police Station Mauranipur, District Jhansi.

Learned counsel for the applicant argued that the applicant has been falsely implicated in the present case. It is argued that the applicant ran away with Roshani, the elder sister of the prosecutrix and solemnized his marriage with her and she is living with the applicant which was opposed by the family members and is the reason for false implication of the applicant. It is argued that no such incident has taken place. The doctor has not found any sign of rape upon the prosecutrix. The FIR although names the applicant as an accused along with Roshni, but the said

allegations are false and incorrect with malafide intentions. The prosecutrix is a major girl as in the FIR itself her age has been disclosed as 17 years. It has also been pointed out that the applicant is not having any criminal history as stated in para 16 of the affidavit and is in jail since 23.3.2019.

Per contra learned counsel for the State vehemently opposed the prayer for bail and argued that as per the medical examination report, the prosecutrix has been opined to be 16 years of age who has supported the prosecution case in her statement recorded under Section 161 and 164 Cr.P.C. and even in her statement recorded as P.W.1 before the trial court. The applicant is named in the FIR, in her statement recorded under Section 161 and 164 Cr.P.C. and in her statement recorded in the trial. In so far as the medical examination of the prosecutrix is concerned, the FIR has been lodged on the basis of application moved under Section 156(3) Cr.P.C. hence the medical examination was conducted after the FIR, as such there is opinion of the doctor regarding no sign of rape on the prosecutrix.

After hearing the counsel for the parties and perusing the record, it is apparent that the applicant is named in the FIR, in her statement recorded under Section 161 and 164 Cr.P.C. and in her statement recorded in the trial. As per the medical examination report, the prosecutrix has been opined to be 16 years of age and minor. The applicant is the husband of the sister of the prosecutrix and as such there are no chances of his false implication. The reason for false implication of the applicant as spelled out in para 10 of the affidavit filed in support of bail application and does not inspire confidence.

Looking to the facts and circumstances of the case, I do not find it a fit case for bail, hence, the bail application is rejected."

10. The trial in the matter is at an advance stage. The victim has supported the prosecution case while being examined as P.W.1. There is no fresh and new ground argued to release the applicant on bail.

11. Looking to the facts and circumstances of the case, I do not find it a fit case for bail, hence, the bail application is rejected.

12. However, it is provided that the applicant may file an application for expeditious disposal of the trial of the case before the court concerned within two weeks from today, which may as per its load of work, diary and pendency of cases, pass appropriate orders on the same.

(Samit Gopal, J.) Order Date :- 1.4.2025 Gaurav Kuls