

HIGH COURT OF UTTARAKHAND AT NAINITAL

Bail Application (IA No.1 of 2025)

In

Criminal Appeal No.91 of 2025

Gaurav RawatAppellant

Versus

State of UttarakhandRespondent

Present:-

Mr. Tapan Singh, Advocate for the appellant.

Mr. J. S. Virk, learned Additional Advocate General for the State.

Coram:Hon'ble Ravindra Maithani, J.

Hon'ble Siddhartha Sah, J.

Hon'ble Ravindra Maithani, J. (Oral)

Instant appeal is preferred against the judgment and order dated 25.01.2025, passed in Special Sessions Trial No.38 of 2022, State of Uttarakhand vs. Gaurav Rawat, by the court of learned Additional District & Sessions Judge/F.T.S.C. (POCSO), Dehradun. By it, the appellant has been convicted under Section 506 of IPC and 5/6 of the Protection of Children from Sexual Offences Act, 2012 and sentenced accordingly. The appellant seeks bail during pendency of this appeal.

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

3. According to the victim, six months prior to lodging of the FIR, the appellant enticed and threatened the victim and raped her in his own house. Thereafter, he continued threatening her that in case she revealed it to anyone, he would spoil her face by pouring acid on it. The victim became pregnant and got six months' foetus aborted.

Subsequently, she informed the District Legal Services Authority that is how the FIR was lodged.

4. Learned counsel for the appellant would submit that the appellant has no relationship with the victim; the FIR has been lodged six months after the alleged incident; there are many contradictions in the testimony of the victim and the material on record.

5. He would further submit that there is no evidence of any termination of pregnancy. He would refer to Exhibit P-11 to argue that it is the alleged ultrasound report of the victim. It is further argued that according to it, the victim was referred by Police Station Selaqui on 17.01.2022, on which date even FIR had not been lodged.

6. He would further submit that the FIR was lodged on 05.02.2022; the victim has revealed her age as 20 years during her medical examination; she is a major.

7. He would further submit that according to the victim, she was telephonically threatened by the appellant, but there is no call detail record or any electronic evidence to that effect.

8. Learned State counsel would submit that the victim has supported her statement during the investigation as well as during the trial.

9. It is a stage of bail post conviction. Much of the discussion, at this stage, is not expected of. Arguments are being appreciated with the caveat that any observation made in this order shall have no bearing at any subsequent stage of the proceedings and in any other matter.

10. The statements of the victim recorded during investigation under Section 164 Cr.P.C, reveal that, in fact, the appellant and victim were friends. Admittedly, the FIR was lodged six months after the alleged incident and the FIR records that victim got her pregnancy terminated, thereafter, she lodged the FIR.

11. Learned counsel for the appellant referred to Exhibit P-11, the ultrasound report, which reveals that the victim was referred to by the Police Station Selaqui on 17.01.2022. The question is that when the FIR itself was lodged on 05.02.2022, what was the occasion for the police to refer the victim for this examination on 17.01.2022? This would find deliberation during the hearing of the appeal.

12. Having considered, this Court is of the view that it is a case in which the execution of sentence should be suspended and the appellant be enlarged on bail.

13. The bail application is allowed.

14. The execution of sentence appealed against is suspended during the pendency of the appeal.

15. The appellant be released on bail, during the pendency of the appeal, on his executing a personal bond and furnishing two reliable sureties, each of the like amount, to the satisfaction of the court concerned.

16. List the appeal in due course for final hearing.

(Siddhartha Sah, J.)
27.05.2026

(Ravindra Maithani, J.)
27.05.2026