

HIGH COURT OF UTTARAKHAND AT NAINITAL

Bail Application (IA) No.2 of 2025

In

Criminal Appeal No. 228 of 2025

Ankit Joshi Appellant

Vs.

State of Uttarakhand Respondent

Present : Mr. Siddharth, Advocate for the appellant.

Ms. Manisha Rana Singh, Deputy 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 07.01.2025, passed in Special Sessions Trial No.08 of 2023, State of Uttarakhand vs. Ankit Joshi, by the court of Additional District and Sessions Judge/FTSC (POCSO), Dehradun. By it, the appellant has been convicted under Sections 376, 354 IPC and Sections 5/6 and 7/8 of the Protection of Children from Sexual Offences Act, 2012 and sentenced accordingly. The appellant seeks bail during pendency of the appeal.

2. Heard on Bail Application (IA) No.1 of 2025.

3. According to the FIR, the mother of the victim was admitted in a hospital, where she was operated on 24.11.2022. She stayed in the hospital for 24th and 25th. On her discharged on 26.11.2022, when she was changing the clothes of her daughter, she found that there were blood in her private part. When enquired, the victim revealed that he was the appellant, who had fingered her due to which she felt lot of pain; the appellant also kissed on different parts of her body.

4. Learned counsel for the appellant submits that the prosecution has not been able to prove its case; the victim has not named the appellant in her examination in the court; the victim is a young girl of 04 years; her testimony is not corroborated and without corroboration, conviction cannot be held. Hence, it is a case fit for bail.

5. Learned State Counsel submits that it is recorded in the FIR and during medical examination also, in her examination under Section 164 of the Code of Criminal Procedure, 1973 the victim has named the appellant; during medical also, she named the appellant; the witness has admitted that the victim was stayed in his house when her mother was admitted though, she admits that the victim has not named the appellant as well.

6. It is a stage of bail. Much of the discussion at this stage is to be avoided. To the extent of appreciating the controversy the matter may be examined with the caveat that any observation made at this stage shall have no bearing at any subsequent stage of the case and in as other case.

7. The victim is a young girl of 04 years. The first question put to her by the court was, as to whether she is known to the appellant? The answer was in negative, though she has stated that one *Chachu* (uncle) touched her body parts, vagina and did oral sex with her. But, who was that *Chachu*? This is so because in answer (1) she has denied that she knows Ankit *Chachu*. How the appellant was named by the victim in her statement during

investigation when she was examined? This and many more questions will find deliberation during hearing of the appeal.

8. Having considered this and other attending factors, we are of the view that it is a case in which the execution of sentence should be suspended and the appellant be enlarged on bail.

9. The bail application is allowed.

10. The execution of sentence, which is under challenge in this appeal shall remain suspended during the pendency of the appeal.

11. Let the appellant be released on bail, during 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.

12. List in due course.

(Siddhartha Sah, J.) (Ravindra Maithani, J.)
23.03.2026

Sanjay