

**IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL**

**Bail Application (IA No.1 of 2025)**

**In**

**Criminal Jail Appeal No.37 of 2019**

Awdhesh Chaudhary ..... Appellant

Vs.

State of Uttarakhand .....Respondent

Presence:

Ms. Prabha Naithani, learned counsel for the appellant.

Mr. Pankaj Joshi, learned AGA 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 6/8.04.2019, passed in Special Session Trial No.144 of 2017, State Vs. Awdhesh Chaudhary by the court of FTC/Additional Sessions Judge/Special Judge POCSO, Hardiwar. By it, the appellant has been convicted under Sections 363, 376(2) (f)(n) of IPC and Sections 5(l)/6 of the Protection of Children from Sexual Offences (POCSO) Act, 2012 and sentenced accordingly. The appellant seeks bail in this appeal.

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

3. According to the FIR, the victim, a young girl, was found missing from her home on 14.08.2017 at 09:00 a.m.; suspicion was raised against the appellant that he had taken her away from home, and she was later recovered from the appellant.

4. Learned counsel for the appellant would submit that the entire case is false; the appellant is the brother-in-law of the informant, who is the mother of the victim, and therefore, he has been falsely implicated. She would submit that the FIR does not record that the appellant is the brother-in-law of the informant. The FIR records that when the family members and other persons chased the appellant in Delhi, he ran away, but it is argued that the victim was not with him at that time; therefore, it is a fit case for bail.

5. Learned State Counsel submits that the victim is the niece of the appellant. She was 13 years and 1 month old at the time of the incident. She was recovered after 45 days from the custody of the appellant, and the victim has supported the prosecution case.

6. It is a stage of bail post conviction. Much of the discussion is not expected of. The presumption of innocence is not available to the appellant because it is bail post conviction. 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.

7. The FIR records that the victim was missing. It is lodged against the appellant. It is true that PW-2, the mother of the victim, has not categorically stated in the FIR that the appellant is her brother-in-law, but she has stated so in her evidence before the Court. The victim was recovered from the custody of the appellant. The victim, during investigation under Section 164 of the Code of Criminal Procedure, 1973, and during trial, stated how the appellant took her away and established physical relations with her at various places.

8. Having considered, this Court is of the view that there is no ground to enlarge the appellant on bail. Accordingly, bail application deserves to be rejected.

9. The bail application is rejected.

10. List this case in due course for final hearing.

(Siddhartha Sah, J.)  
12.05.2026

(Ravindra Maithani, J.)  
12.05.2026

BS