



HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL No. - 2584 of 2025

Gajendra Alias Choti

.....Appellant(s)

Versus

State Of U.P. And 3 Others

.....Respondent(s)

Counsel for Appellant(s)	: Dileep Kumar Singh, Manoj Kumar Dubey
Counsel for Respondent(s)	: G.A.

Court No. - 91

HON'BLE SANTOSH RAI, J.

(Ref: Criminal Misc. Suspension of Sentence Application No.01 of 2025)

1. Heard learned counsel for the appellant-applicant and learned A.G.A. for the State and perused the record.
2. Bail application has been filed on behalf of accused appellant **Gajendra Alias Choti**, who has been convicted in Sessions Case No.1637 of 2022 (State of U.P.Vs.Gajendra Alias Choti), arising out of Case Crime No.358 of 2022, under Sections 307, 354, 504 and 506 I.P.C. and Section 8 POCSO Act, P.S. Dhampur, District Bijnor.
3. Tersely, as per allegations contained in the F.I.R., appellant-applicant has committed sexual assault alongwith firearm injury on the waist of the victim.
4. Learned counsel for the appellant-applicant submits that appellant has not committed any offence as alleged in the F.I.R and has been falsely implicated in this case due to village party bandi and election rivalry. He further submitted that firearm was said to be caused on non vital part of the body of the victim. It is argued that appellant was enlarged on bail during trial by this Court vide order dated 27.01.2023 passed in Criminal Misc. Bail Application No.56867 of 2022 which liberty has not been misused by him. Submission is that the accused appellant has no criminal history and since hearing of the appeal may take sufficiently long, as such he be enlarged on bail. As per the custody certificate available on record, period of incarceration undergone by the appellant is one year, one month and two

days.

5. Learned AGA has opposed the prayer made for grant of bail and submits that appellant has committed sexual assault with the daughter of the informant and fired on her waist. The trial court after perusing all the material available on record and considering each and every aspect of the matter has rightly convicted the appellant.

6. Considering the facts that though appellant-applicant is named in the first information report, allegation against him is that he caused sexual assault alongwith firearm, as per medical report, firearm is said to be caused on the waist of the victim which is non vital part of the body, the maximum sentence awarded to the appellant is only five years along with fine under Section 307 I.P.C., the accused appellant was enlarged on bail by the court during trial, no reliable material is available that he intervened the trial proceedings or violated the bail conditions, as per custody report dated 13.10.2025 submitted by the State, the appellant is in custody for one year, one month and two days, presently he is in custody for more than one and half years, learned A.G.A. informs that accused appellant has no criminal history and hearing of the appeal may take some more time, as such in view of the law laid down by the Apex Court in the cases of ***Babu Singh & Ors. Vs. State of U.P. (1978) 1 SCC 579, Saudan Singh Vs. State of U.P. (2023) 17 SCC 446, Sohail Gohar Vs. State of M.P. (Special Leave to Appeal (Crl.) No.5013 of 2025, arising out of Crl. Appeal No.2058 of 2025)***, without further commenting upon the merits of the case, facts and circumstances of this case in totality, this Court is of the view that the appellant/applicant is entitled to be released on bail.

7. Let the accused applicant/appellant **Gajendra Alias Choti** be released on bail in the above case on furnishing personal bond and two sureties each in the like amount to the satisfaction of the court concerned, subject to furnishing undertaking that:-

- (i) the appellant will co-operate in the hearing of the criminal appeal.
- (ii) the appellant shall inform about the change of address, if any, within fifteen days, failing which the State shall be at liberty to request for cancellation of bail of appellant.
- (iii) the appellant will not indulge in any unlawful activities during the

pendency of criminal appeal.

8. The sentence awarded to the appellant shall remain suspended during the pendency of criminal appeal subject to depositing 50% of the total fine within a period of thirty days after release of the appellant from jail and remaining 50% fine shall remain stayed till the pendency of the criminal appeal.

9. It is made clear that, in case, the fine is not deposited during the aforesaid period, the same shall be recovered by the trial court concerned, forthwith, in accordance with law.

10. On acceptance of bail bonds and deposition of fine, the trial court shall transmit photostat copies of relevant records thereof to this Court for being kept on the record of this appeal.

(Order on Appeal)

1. Office is directed to get the paper book prepared within six weeks, if not prepared.
2. List the appeal for hearing in due course.

April 9, 2026
Asha

(Santosh Rai,J.)