



HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 528 BNSS No. - 31550 of 2025

Mahmood Ali

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite
Party(s)

Counsel for Applicant(s)	:	Indra Bhan Yadav, Vijay Kumar Yadav
Counsel for Opposite Party(s)	:	G.A.

Court No. - 82

HON'BLE SAMEER JAIN, J.

1. Heard Sri S.B. Singh, learned Advocate holding brief of Sri Indra Bhan Yadav, learned counsel for applicant and Sri Vikas Sahai, learned AGA as well as Dr. S.B. Maurya, learned AGA-I for the State.
2. The instant application has been filed by the applicant with a prayer to quash the cognizance order dated 03.01.2025, charge-sheet dated 28.11.2024 as well as entire proceedings arising out of Case Crime No. 162 of 2024, under Sections 376-D, 323, 506 IPC, Police Station Mirzapur, District Saharanpur pending in the court of Additional Chief Judicial Magistrate, Saharanpur.
3. Learned counsel for applicant submits, applicant was Ex-Member of Legislative Council and on 02.10.2024 FIR was lodged against him and his nephews (total four in number) with the allegation that in November, 2021 opposite party no.2 i.e. informant of the case when approached the co-accused Wazid, the elder son of Hazi Iqbal then he employed her at Rs. 8,000/- per month and thereafter one day in the evening co-accused Wazid committed rape upon her and thereafter applicant and other accused also committed rape upon her.
4. He further submits, FIR of the present case has not only been lodged after about three years but even prima facie allegations leveled against the applicant and others appears to be unconvincing and no reliance can be placed on such version but in spite of that after investigation charge-sheet has been filed.

5. He further submits, as prima facie allegations leveled against the applicant appear to be false and instant case attracts principle of malicious prosecution, therefore, charge-sheet filed against applicant and proceedings pending against him are liable to be quashed.

6. He placed reliance on the judgment of the Apex Court in the case of **Pradeep Kumar Kesarwani Vs. The State of Uttar Pradesh and another** decided on 02.09.2025 passed in Criminal Appeal No. 3831 of 2025 arising out of S.L.P. (Criminal) No. 11642 of 2019.

7. Per contra, learned AGA however opposed the prayer but could not dispute the argument on facts advanced by learned counsel for applicant.

8. I have heard both the parties and perused the record of the case.

9. However, it appears to be a case of gang rape and charge-sheet has been filed against applicant and others for offences under Sections 376-D, 323, 506 IPC but it reflects, there is delay of about three years in lodgement of the FIR of the present case

10. Further, this Court also finds merit in the argument advanced by learned counsel for applicant that prima facie even the allegation leveled against the applicant and other accused does not appear to be convincing.

11. The Apex Court in case of Pradeep Kumar Kesarwani (supra) in paragraph-13 also criticized the High Court to overlook the fact that FIR was lodged belatedly after about four years.

12. Therefore, considering the above facts, in view of this Court, matter requires consideration.

13. Connect the instant application with Application U/S 528 BNSS No. 14388 of 2025.

14. Issue notice to opposite party no.2, returnable at an early date.

15. Opposite party no.2 and State may file counter affidavit within four weeks.

16. Rejoinder affidavit, if any, may be filed by the applicant within ten days thereafter.

17. List this case on 20.11.2025 in the category of daily cause list in top ten

cases.

18. Till the next date of listing, further proceedings of the aforesaid case pending against applicant shall remain stayed.

September 25, 2025
AK Pandey

(Sameer Jain,J.)