

**(2005) 09 AHC CK 0198**

**Allahabad High Court**

**Case No:** Criminal Miscellaneous Bail Application No. 4696 of 2005

Govind Ram

APPELLANT

Vs

State of U.P.

RESPONDENT

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**Date of Decision:** Sept. 27, 2005

**Acts Referred:**

- Criminal Procedure Code, 1973 (CrPC) - Section 107, 116, 151
- Penal Code, 1860 (IPC) - Section 376, 506

**Hon'ble Judges:** Ravindra Singh, J

**Bench:** Single Bench

**Advocate:** I.M. Khan, for the Appellant; A.G.A., for the Respondent

**Final Decision:** Dismissed

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### **Judgement**

Ravindra Singh, J.

Heard Sri I.M. Khan, learned counsel for the applicant and the learned A.G.A.

2. This application has been filed with the prayer that the applicant Govind Ram be released on bail in case crime No. 71 of 2005 u/s 376/506 I.P.C. P.S. Tanda district Rampur.

3. From the perusal of the record it reveals that in the present case F.I.R. was lodged by Tota Ram on 30.10.2005 at 8.30 P.M. in respect of the incident which had occurred on 25.1.2005 at about 9.30 A.M. The distance of the police station was 16 km from the alleged place of occurrence.

4. According to prosecution version Km. Sadhna aged about 15 years had gone to her school from her house on 25.1.2005 at about 9 A.M.. The prosecutrix was a student of class XIth. When she reached near the sugar cane field of one Veer Singh she was lifted by the applicant by force from the way and she was taken to sugar cane field. Her cloths were put off by the applicant. Thereafter the rape was committed with her and consequently the prosecutrix received some injuries. When

the protest was made by the prosecutrix she was given threat. The cloths of the prosecutrix were blood stained. The prosecutrix disclosed the correct fact to her mother but the F.I.R. of the first informant was not registered by the police of P.S. Tanda and the police was in collusion with the applicant. Thereafter the applicant has given in writing to the additional S.P. Rampur and on his direction F.I.R. was registered. The prosecutrix was medically examined on 29.1.2005. In the medical examination report hymen was torn fresh laceration was present 6 O'clock position of hymen and the age of the prosecutrix was above 18 years and no definite opinion of rape can be given.

5. It is contended by the learned counsel for the applicant that in the present case F.I.R. is delayed and in the F.I.R. it has been mentioned that the F.I.R. of the first informant was not registered by the police and the applicant was in collusion with the police station shows that the applicant was falsely implicated.

6. It is further contended that the prosecutrix was medically examined on 29.1.2005 whereas the alleged occurrence had taken place on 25.1.2005 at about 9.30 A.M. but in the medical examination report fresh laceration was present which shows that this injury was not caused in the incident of 25.1.2005 because after four days of the alleged occurrence injury will not be fresh. It is further contended that the applicant has been falsely implicated in the present case because both the parties challaned by police u/s 151/107/116 Cr.P.C. on 28.1.2005 till then there was no complaint in respect of the incident occurred on 25.1.2005. It is further contended that Rajeshwar, real brother of the applicant fell in love with the daughter of Kham Singh, real Mausera brother of the first informant and performed the marriage in the month of July, 1998 in respect of which Khem Singh lodged an F.I.R. against him. It is further contended that Veer Singh has filed an affidavit that no such incident had occurred in his field on 25.1.2005 at about 9.30 A.M.

7. It is opposed by the learned A.G.A. by submitting that the prosecution story is fully corroborated by the medical reports. The applicant has committed rape with the prosecutrix without her free will and consent and the allegation of rape is corroborated by medical examination report because hymn was torn and fresh laceration was present and the cloths of the prosecutrix were also blood stained. The local police was in collusion with the applicant. Therefore the F.I.R. was registered on the direction of the A.S.P. Rampur.

8. It is further contended that the alleged occurrence had taken place on 25.1.2005. thereafter on 28.1.2005 some marpeet was taken place between the parties and they were challaned u/s 151/107/116 Cr.P.C., The challan of both the parties was done after commission of the alleged offence.

9. Considering the facts and circumstance of the case and the submission made by the learned counsel for the applicant without expressing any opinion on the merits of the case the applicant is not entitled for bail at this stage. Accordingly his bail

application is rejected