

**(2005) 09 AHC CK 0252**

**Allahabad High Court**

**Case No:** Criminal Miscellaneous Bail Application No. 12284 of 2005

Krishna

APPELLANT

Vs

State of U.P.

RESPONDENT

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

**Acts Referred:**

- Penal Code, 1860 (IPC) - Section 377

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

**Bench:** Single Bench

**Advocate:** S.K. Singh, for the Appellant; A.G.A., for the Respondent

**Final Decision:** Dismissed

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### **Judgement**

Ravindra Singh, J.

Heard Sri S.K. Singh, learned counsel for the applicant and the learned A.G.A.

2. This application has been filed with the prayer that the applicant Krishna be released on bail in case crime No. 17 of 2005 u/s 377 I.P.C. P.S. Bairia district Ballia.

3. From the perusal of the report it appears that in the present case an F.I.R. was lodged by Mohd. Mukhtiyar Miyan on 11.3.2005 at 11.30 P.M. in respect of incident which had occurred on 8.3.2005 at about 5 P.M..

4. The allegation against the applicant is that the applicant has committed unnatural offence with a boy namely Shibbu Miyan aged about 9 years. At the commission of the alleged offence there was profused bleeding. The alleged boy had cried, then some persons reached at the place of occurrence but the applicant successfully escaped from the place of occurrence. The victim was taken to the hospital where he was medically examined and medical aid was given to him. The medical examination report shows that there was laceration 1 cm x 1 cm skin deep at 6 o'clock position of anal canal. The bleeding was present. Margins are irregular. The injury was caused by blunt and hard object. The patient was referred to District hospital Ballia

to surgeon for expert advice and further management also.

5. It is contended by the learned counsel for the applicant that the applicant is innocent. He has not committed the alleged offence and he has been falsely implicated due to village party bandi. The Doctor has not given a clear cut opinion to show that any unnatural offence was committed, according to the medical examination report injury was caused by hand blunt object. The applicant is also a young boy aged about 19 years and there is no independent witness to support the prosecution story.

6. It is opposed by the learned A.G.A. by submitting that the alleged occurrence had taken place in broad day light. The applicant has committed the alleged offence. He was seen by independent witnesses and the victim supported the prosecution story. The medical examination report is also to the effect that unnatural offence was committed and the victim has stated before the doctor that sodomy was committed with him.

7. 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.