

SL. No.	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGE'S ORDERS
			<u>UKHC010110202026</u> <u>BA1/1111/2026</u> Tanveer Versus State Of Uttarakhand --Applicant --Respondent <u>Hon'ble Rakesh Thapliyal, J.</u> 1. Mr. Mohd. Safdar, learned counsel for the applicant. 2. Mr. Tumul Nainwal, leaned AGA for the State. 3. The instant first bail application has been moved by the applicant "Tanveer, son of Anwar" praying for regular bail in reference to FIR dated 03.05.2026 bearing FIR No. 0181 of 2025, Police Station - Bahadrabad, District - Haridwar lodged by Jal Singh implicating the present applicant and one Nazim for the offences punishable under Section 64 (2) (e) & (f), 70 (1) BNS, 2023 read with Section 5 (l) (n) / 6 of the POCSO Act. In this FIR, investigation was concluded and the applicant and other co-accused Nazim have been charge-sheeted for the offences for the offences punishable under Section 351 (3), 64 (2) (e) (f), 70 (1) BNS, 2023 read with Section 5 (l) (n) / 6 of the POCSO Act, 3 (2) (v) of the SC / ST Act and under Section 5 of the Freedom of Religion Act. 4. Learned counsel for the applicant submits that applicant is innocent and has been falsely implicated, which is evident from the fact that victim during her cross examination before the trial court does not support the prosecution case and denied the allegations and the relationship, if

			any, was entirely consensual and forensic science laboratory report confirms that there is no spermatozoa, dead or alive, were detected. He further argued that co-accused Nazim has already been enlarged on bail by the Coordinate Bench by the order dated 14.05.2026 passed in 1st Bail Application No. 1613 of 2025 and he claims equal entitlement of parity. In addition to this, he submits that present applicant is languishing in jail since 03.05.2025 and has been incarcerated since then and there is no possibility that the trial would be expedited soon, therefore, applicant be released on bail. 5. On the other hand, Mr. Tumul Nainwal, learned AGA for the State, has vehemently opposed the bail application by submitting that victim is a minor and her consensual relationship with the applicant is legally irrelevant under the provisions of the POCSO Act. He further submits that there is scientific evidence against the applicant, since as per FSL report, mix DNA sample (Exhibit 7) collected from the vaginal swab of victim matches with DNA of blood sample of victim (Exhibit 8) and blood sample of applicant Tanveer (Exhibit 12). 6. In addition to this, learned AGA submits that the present applicant and co-accused Nazim both trapped the victim and actively participating in sexual assault. He further submits that during investigation, recovery of forged Adhar card in the name of "Bisara" directly links the accused to a premeditated design of forced religion with forcible religion conversion. He also submits that Section 29 and 30 of the POCSO Act mandate a presumption of guilt against the accused. 7. After hearing the rival contentions of the learned counsel for the parties and perusing the entire record including forensic report, this Court is of the view that absence of spermatozoa does not negate the sexual assault. Semen may lack spermatozoa due to medical condition or the nature of sexual assault. Presence of accused's DNA in the victim vaginal swab Exhibit 7 provides scientific corroboration of physical contact. In
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			addition to this, under the provision of the POCSO Act once the age of victim is established to be minor any plea of consensual sexual relationship has no relevance. So far as the fact that victim denied the allegations during examination cannot wipe out scientific evidence which connect involvement of applicant. Hostility of the witness is subject matter of final adjudication of the trial and not ground of bail when strong forensic evidence exhibits are available. So far as the plea of parity with the co-accused Nazim is concerned, it also does not hold good ground, therefore, parity cannot be claimed as a matter of right and even otherwise, the allegations against both the accused are slightly different though the accused also take active part in physical assault under the garb of conversion of religion. 8. What this Court observed that evidence shows that this is a case of systemic attempt of forcible religion conversion under the deep coercion. Creation of forged adhar card under false name indicates to what extent applicant is involved in the commission of crime. Consequently, I do not find any good ground to enlarge the applicant on bail. 9. Accordingly, without expressing any opinion on the merit of the case the bail application is dismissed. It is made clear that the trial court may proceed with the trial without being influenced with any observation made as above. (Rakesh Thapliyal, J.) 30.06.2026 SKS
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