

Judgment reserved on:31.07.2026

Judgment delivered on:06.08.2026

IN THE HIGH COURT OF UTTARAKHAND
AT NAINITAL

IA No.01 of 2026 (Short Term Bail Application)

In

First Bail Application No.1123 of 2026

Kushagra Sharma @ Romy. Applicant.

Versus

State of Uttarakhand.Respondent.

Present:

Mr. Lalit Sharma, learned counsel for the applicant.

Mr. Tumul Nainwal, learned AGA, for the State of Uttarakhand.

Mr. Ankur Sharma, learned counsel for the complainant.

Hon'ble Mr. Justice Rakesh Thapliyal, J.

1. The instant bail application is moved on behalf of the present applicant - Kushagra Sharma @ Romy S/o Late Commander Arvind Sharma, seeking regular bail in connection with FIR dated 02.04.2026 bearing Case Crime No.129 of 2026, lodged at Police Station Rishikesh, District Dehradun, wherein, the informant/victim implicated Mr. Manjeet Johar and Mr. Manav Johar, and the present applicant - Kushagra Sharma @ Romy, for the offences punishable under Sections 342, 376 and 506 of IPC. On culmination of the investigation, the applicant is chargesheeted for the offences punishable under Sections 64 and 351 of BNS, 2023, and the rest of the persons who were also named in the FIR, namely, Mr. Manjeet Johar and Mr. Manav Johar, have been exonerated.

2. Briefly stated that on a written complaint of the victim, an FIR was registered bearing FIR No.129 of 2026 alleging, therein, that the informant got married with one Mr. Sajal Khurana, in the year 2016, and after the marriage, she resides with her husband and in-laws and at that time, her husband runs a provisional store, however, from 2021, he started a real estate business with

Mr. Manjeet Johar and Mr. Manav Johar, and she has noticed after marriage that Mr. Manjeet Johar regularly visits the in-laws house, and especially he comes when her husband and father-in-law were not in the house, and what she has noticed that Mr. Manjeet Johar, for several hours stay with her mother-in-law, and when she try to convey her husband, he ignored by saying that Mr. Manjeet Johar, is our God and only because of him, his entire house is running. She further alleged that in January, 2022 when she was in her room and doing some household work Mr. Manjeet Johar, entered in her room, on which she annoyed and objected, then he pushed her into bed and locked the room from inside and forcefully committed rape, and at that time her mother-in-law was in the house but has not objected and have not come to her rescue however about this incident, she has never informed to her father since he is a heart-patient. It is further alleged that she came with her husband at Dehradun in a Hotel “**M. J. Residency**” owned by Mr. Manjeet Johar, wherein, in top floor he has an office, and she saw that Mr. Manjeet Johar, is sitting alone in the office, then she entered in washroom but Mr. Manjeet Johar, follow her, then she shouted, due to which, he scared and leave her, then she told to her husband that I want to go back, then both rushed to Rishikesh and she apprised about this incident to her husband Mr. Sajal Khurana, but he ignored and after fifteen days’ Mr. Manjeet Johar, again came and at that time her husband and mother-in-law, both were in the house then Mr. Manjeet Johar, told that I want to talk her lonely, on this her husband and mother-in-law came out and thereafter Mr. Manjeet Johar, threatened her to face dire consequences, and he also threatened to kill her daughter, then she scared, and in such a situation, she has no option except to accept his proposal. It is further alleged that on 10.02.2023, her husband Mr. Sajal Khurana, took her to

“**Belle Vista Pent House**” and told that his friend and his wife are coming and when she reached there, then son of **Mr. Manjeet Johar**, namely, **Mr. Manav Johar**, was sitting and on asking from Mr. Sajal Khurana, he told that Mr. Manav Johar, is my friend, and his wife is coming after some time, then she sit there and her husband left the place and thereafter **Mr. Manjeet Johar offered drink** and after finishing the drink, she feel unconsciousness and dizziness and when she became unconscious, and then she noticed in the next morning she is in her own house, then her Cook informed that Mr. Manav Johar, dropped her at about 5:30 AM in the morning in his Fortuner car, in an unconscious condition, and thereafter, when she changed her clothes she noticed bite marks in her body and thereafter she received a Whatsapp message on her mobile at about 6:30 AM from Whatsapp Mobile No.9897015000, of Mr. Manav Johar, wherein, it was written that “**thanks for the lovely evening yesterday enjoyed. God Blessed**”. It is further alleged in the FIR that about this incident, she told to her husband, but he ignored by saying that everything is normal and thereafter Mr. Manjeet Johar and Mr. Manav Johar, both regularly call her, but she ignored and she was given regular threatening by them, and then she realized that she is going in depression. It is further alleged that in January, 2024, her husband Mr. Sajal Khurana, took her in a “**Farmhouse**” at Ranipokhri, Dehradun, owned by Manav Johar where she was introduced to Mr. Kushagra Sharma @ Romy, partner of Mr. Manav Johar, by her husband and then Mr. Kushagra Sharma @ Romy, took her mobile number and thereafter he regularly call her and in September, 2024, Mr. Kushagra Sharma @ Romy call her and ask her to come at “**Tapovan Lemon Tree Hotel**” by giving threatening that if she will not reach there, then he will send her obscene photographs with Mr. Manav Johar, to her

father and in such a situation, she has no option except to accept his proposal, then she reached in “**Tapovan Lemon Tree Hotel**”, where Mr. Kushagra Sharma @ Romy was alone then he shows some photographs of obscene type which perhaps was taken by Mr. Manav Johar, when she was in an unconscious condition on 10.02.2023 at “**Belle Vista Pent House**”, and then Mr. Kushagra Sharma, commit rape, then he leave her in his car near her house and thereafter on 18.09.2024 Mr. Manav Johar, also threatened call her in his Farmhouse at Ranipokhri, Dehradun, where he also raped her. It is further alleged that on 27.09.2024, again she was threatened and call in a “**Hotel Divine Laxmanjhula**” where she was raped, then on 21.10.2024, Mr. Kushagra Sharma, threatened her to call her in “**Hyat Residency Rajpur**”, and then on 26.10.2025, he took her in “**Aerosuits Jolligrant**”, where she was raped and in between Mr. Manav Johar and Mr. Kushagra Sharma @ Romy several times took her to “**Aerosuits Jolligrant**”, and another places where she was physically assaulted and they knows it very well about the condition of her family and took undue advantage, and repeatedly she is being harassed and after being completely broken mentally and physically, she told to her sister who gave her courage and support then she approach the Police and made a written complaint on 02.04.2026, at Police Station Rishikesh, District Dehradun and on her complaint First Information Report was registered. It is further alleged that since 2021 all these three persons, namely Mr. Manjeet Johar, Mr. Manav Johar and Mr. Kushagra Sharma @ Romy, have sexually assaulted her.

3. When this bail application came before this Court on 02.07.2026, it has been apprised that the victim also filed a WPCRL No.942 of 2026, “Smt. X (Victim) Vs. State of Uttarakhand and others”, and some few petitions were also filed before this Court

i.e. WPCRL No.832 of 2026, “Dinesh Kothari Vs. State of Uttarakhand and others”, and WPCRL No.1157 of 2026, “Kushagra Sharma @ Romy Vs. State of Uttarakhand” then the records of those writ petitions have also been summoned for perusal.

4. In WPCRL No.942 of 2026, victim prayed for transfer of the investigation from Special Investigation Team (SIT) to Central Bureau of Investigation (CBI), or in alternate to the Crime Branch Criminal Investigation Department (CBCID), Uttarakhand to ensure of fair and impartial and expeditious investigation.

5. In this petition, the main plea of the victim was that the investigation was initially entrusted to Sub-Inspector Ms. Meenu Yadav, and later to Sub-Inspector Ms. Himani Chaudhary, but the conduct of both the Investigating Officers were biased, and in reference to this, certain Whatsapp chats between the victim and the Investigating Officer - Ms. Himanu Chaudhary, Sub-Inspector, were also enclosed to show the conduct of the Investigating Officer, who has been pressurized the victim to collect evidence herself since mere allegations are not enough and the victim herself would collect and furnish the evidence and all these information were also shared with the accused persons, and during the entire investigation the IOs never contact her. Various other pleas were also taken in the petition in order to establish that the ongoing investigation is biased.

6. In WPCRL No.942 of 2026, after taking serious note on such plea the SSP, Dehradun, was called to join proceedings through VC in order to assist who apprised that a separate Team has now been constituted for further investigation. The learned AGA today apprised that further investigation is going on and is at a crucial stage.

7. Now in this bail application, learned counsel for the applicant argued that the present applicant is innocent and has been falsely implicated and in fact the informant was first time introduced to the applicant in the year 2024, and in the FIR, she disclosed about the incident of January, 2022, and the FIR has been lodged at a belated stage i.e. on 02.04.2026, and in fact the victim was familiar with the wife of the applicant as well as with his minor daughters and in support of it, Whatsapp chats and the group photographs have been shown to this Court in order to show that even after the alleged incident she met with his family members, which itself falsify the allegations as alleged in the First Information Report.

8. Learned counsel for the applicant further argued that in this FIR only the applicant has been chargesheeted and rest of the accused persons, though named with serious allegations, namely, Mr. Manjeet Johar and his son Mr. Manav Johar, have been completely exonerated by observing that there is no evidence against them with regard to the offence punishable under Sections 342, 376 and 506 of IPC, and now only the present applicant has been chargesheeted, only for the offences punishable under Section 69 read with Section 351 of BNS, 2023.

9. Learned counsel for the applicant further submits that though the chargesheet has been filed for the offence punishable under Section 69 read with Section 351 of BNS, 2023 but while taking the cognizance, the Additional Chief Judicial Magistrate, Rishikesh, took cognizance for the offence punishable under Section 64 read with Section 351 of BNS, 2023, after gone through with the entire case diary learned counsel for the applicant submits that though the chargesheet has been filed under Section 69 of BNS, 2023 read with Section 351 of BNS, 2023 but without

any material, the applicant have been chargesheeted for the offences punishable under Section 64 read with Section 351 of BNS, 2023.

10. He further argued that the wife of the applicant died in May, 2024 due to chronic disease of "Cancer" and he has two minor daughters and the younger one is studying in the same Institution where the daughter of the victim is studying, due to which, they both came in contact and also have an affair and physical relation in between both of them are consensual and there is no question of giving any threat and a specific averment has been made in paragraph 6 of the bail application.

11. Learned counsel for the applicant further argued that when the husband of the victim came to know about the affair of the victim with the applicant, then he also filed a suit seeking divorce on the ground of adultery and the victim filed a case of maintenance against her husband and now only in order to save her matrimonial life, the victim made false and frivolous allegations against the applicant and specific averment has been made in paragraph 7 of the bail application.

12. Learned counsel for the applicant further submits that the victim on her own and with free consent accompanied the applicant to different Hotels, where they used to stay together and the pictures were taken by the victim herself as a selfie, and it is completely false that the applicant took obscene photographs of the victim and the victim herself insists the applicant on different occasions to meet and to go different places and stay together in different Hotels and she also persuaded the applicant to go to Goa, when the applicant had gone Goa with his family. He further submits that the Whatsapp chat in between the victim and the applicant clearly shows that they were in relationship and the

Whatsapp chat in between the victim and the daughter shows that they were quite close to each other, and his daughter was also very comfortable with the victim. He submits that in fact the present applicant has been implicated by the victim only to save her matrimonial life.

13. Learned counsel for the applicant further submits that the case in hand is nothing but is a case of love affair between the applicant and the victim, who were in relationship since long and at no point of time the applicant make an attempt to forcefully commit sexual assault upon her nor he has circulated any video clip in the social media platform and as such no *prima facie* case is made out against the applicant. He further submits that the applicant is languishing in jail since 05.04.2026, however, the arrest memo does not show that any ground of arrest in terms of Section 47 of BNSS, 2023 was provided and in fact at the time of the arrest, the applicant has not been informed about the ground of arrest, and which is completely in violation of Article 21 (a) of the Constitution of India, therefore, the applicant on this account alone deserves for bail.

14. He further submits that there is no any material evidence with the prosecution in chargesheeting the applicant and allegation of making or circulating any obscene video is bald and unsubstantiated without any evidence, as there is no recovery in this regard and even there is no electronic or forensic evidence which will link the applicant with the alleged act, hence, the entire allegations on the face of it are false and concocted. He further submits that since now the chargesheet has been filed, custodial interrogation is not at all required.

15. Learned counsel for the applicant also submits that after the demise of the applicant's wife there is no one in the family to look

after his minor daughters and since now the chargesheet has been filed, there is no possibility that the trial would be expedited soon and the applicant cannot be detained for an indefinite period in judicial custody and is deserves for bail. He also submits that there is no likelihood that the applicant after being released on bail will make any tampering with the documentary evidence since the investigation is already completed. He also submits that the applicant have old aged mother, who is about 71 years old and totally depends on the applicant, and if he is enlarged on bail, he will not misuse the same.

16. On 09.07.2026, the State was directed to get the status of ongoing further investigation.

17. On 24.07.2026, the SSP, Dehradun as well as the Head of the Team constituted by SSP, Dehradun, Ms. Jaya Baluni, Additional S.P. (Rural) joined the proceedings through VC and apprised to this Court that one male Inspector and two female Sub-Inspectors, are also included in the SIT, and apprised that further investigation is going on in a very fair and transparent manner, which will take some time and the SIT collected all the documents.

18. A detail objections has been filed by the Prosecution, wherein, it is stated that during investigation the statement of all the accused persons were recorded, and the victim was sexually assaulted by her husband's business associates and sufficient material has been collected during investigation and her husband introduced to her three business partners and each of them committed sexual assault upon her, though, there is also matrimonial dispute in between the victim and her husband, and the victim in her statement recorded under Sections 180 and 183

of BNSS, 2023, consistently took the same stand about forceful sexual assault.

19. Learned AGA vehemently opposed the bail application by submitting that the Whatsapp chat in between the applicant and the victim, as well as the victim's daughter cannot by itself establish relationship in between the applicant and the victim were consensual and the submissions that the victim was remained in friendly contact with the applicant and his family cannot by itself read as conclusive proof of consent or false implication.

20. He also submits that the husband of the victim in his own statement discloses that at "Hotel Tapovan Lemon Tree", he himself furnished ID of another person to facilitate to make entry in the room of the Hotel, where the rape was committed and this admission of her husband itself corroborates with the prosecution case, and it negates the theory of consent and demonstrates active facilitation/conspiracy.

21. Learned AGA also submits that for the purposes of further investigation, now the SSP, Dehradun also constituted a SIT, headed by Additional S.P. rank Official to examine involvement of other persons and now under scrutiny and the investigation is at a crucial stage, therefore, at this juncture, when the further investigation is being conducted by the SIT, it is not proper to enlarge the applicant on bail, otherwise, it may affect the ongoing further investigation. He further submits that if the applicant be enlarged on bail, then he may in connivance with the other persons, who are named in the FIR though exonerated earlier and now under further investigation may make an attempt to frustrate the ongoing investigation and there may be a possibility that they

all may collectively cause and to threaten the victim and her minor daughter.

22. After filing of the counter affidavit, the applicant also filed IA No.01 of 2026, seeking short term bail on the following grounds:-

“(i) The applicant’s wife died due to chronic disease cancer on 13.05.2024, leaving behind two minor daughters aged about 12 and 5 years respectively.

(ii) There is no one in the family to look after school going children and in the family the applicant has old aged mother of 71 years, who is suffering from various ailments, and is unable to walk properly and it is very difficult for her to take care of his minor daughters. The school certificates and Aadhaar Card of the children have also been enclosed.

(iii) One of the daughters of the applicant is suffering from “Neuro Problem” and she is under regular treatment and is not well. ”

23. An objection has been filed by the informant/victim, without disclosing her identity in view of the guidelines of the Hon’ble Apex Court and in terms of the provisions as enumerated under Section 72 of BNS, 2023 and the affidavit is filed in a sealed cover, and the same are taken on record.

24. In paragraph 3 of the objections, it is stated that on 25.06.2026, two female members of the SIT came into the house of the victim for further investigation, and when the members of the SIT leaves the house of her in-laws, the in-laws pressurized to take the case back and they also abused her as well as her daughter, who is seven years old, due to which her daughter sustain

injuries, which was complaint to the concerned Police Station on 25.06.2026. The complaint as well as medical report of the victim's daughter is also enclosed as Annexure No.1, to the objections.

25. In paragraph 4, it is further contended that when she approached to the concerned Police Station on 25.06.2026, she was misbehaved by the Police personnel and refuse to receive her application regarding the incident of 25.06.2026, then she make a call to 112 and thereafter her complaint was received at 10:30 PM i.e. after 3 -4 hours of the incident and the incident is recorded in the CCTV. It is further contended that she is having a digital records and the same shall also be placed if this Court ask for.

26. In paragraph 5 of the objection, it is also contended that an application was moved to the SSP, Dehradun through speed post on 04.07.2026, regarding the incident of 25.06.2026, but no action has been taken so far.

27. In paragraph 6 of the objection, it is further stated that when no action was taken on her complaint, she filed a complaint on 20.07.2026 under Section 175 (3) of BNSS, 2023, the copy of which is also enclosed as Annexure no.3. In paragraph 7, it is further stated that she learnt that her husband also visited the concerned Jail on 02.07.2026, to meet the applicant, which clearly shows the involvement of her husband in the alleged crime, but till date no action has been taken against him.

28. Heard learned counsel for the applicant as well as the learned AGA for the prosecution and also learned counsel for the informant/victim at length, and also gone through with the entire records, including the counter affidavit of prosecution as well as the objections of the victim.

29. No doubt the allegations as alleged are sensitive relating to a repeated sexual assault with the victim, and from the contents of FIR it cannot be ruled out about the involvement of husband of the victim in the entire episode. The FIR also reveals the involvement of the other two persons, namely, Mr. Manjeet Johar and Mr. Manav Johar, though they have been exonerated earlier and now their conduct is also under further investigation, which is being carried out by the SIT. The FIR reveals that the husband of the victim runs a real estate business in association with Mr. Manjeet Johar and Mr. Manav Johar. FIR contains the allegations that there was frequent visit of Mr. Manjeet Johar, to the house of in-laws of the victim, and even the places of incident and the date is also mentioned in the FIR, and the incident was alleged to be happened in the Hotel and the Farmhouse of Mr. Manjeet Johar. The FIR talks about the incident of January, 2022, then February, 2022 and also of 10.02.2023, then of January, 2024. The FIR also alleges of criminal conspiracy. The Whatsapp messages and chats confirming the physical proximity and intent, and *prima facie* it appears to be a case of continuous exploitation, and now at this juncture when the present applicant is praying for bail, this Court has to make a judicial scrutiny on certain parameters.

30. In Criminal jurisprudence the “consent” obtained through threat constitutes an offence of rape and it can be termed as syndicate crime of sexual exploitation of a married lady, as per her version. They all have exploited the victim sexually, and the incident in different commercial places like “**Tapovan Lemon Tree Hotel**” Hotels and Farmhouse owned by one of the person, who is named in the FIR which indicates as per the FIR that in this incident the group of people are involved and in such a situation if the applicant is released on bail there is a high probability of

risk for destroying the electronic evidence or to pressurize the hotel staff to wipe out the evidences.

31. So far as the delay part in lodging the FIR is concerned, the argument, at this stage, cannot be accepted since the victim narrated the events of different dates which is started from year 2022 to 2025, and with regard to the allegations of rape, it is very difficult for a victim to lodge the FIR immediately. The victim completely corroborated the prosecution case in her statement recorded under Section 183 of BNSS, 2023, and as per the objection of the victim herself, she also moved an application under Section 175 (3) of BNSS, 2023, which reveals that she is under profound coercion, fear and duress, and admittedly a new SIT has been constituted by the SSP, Dehradun, for the purposes of conducting a further investigation to examine the conduct of other persons who are named in the FIR though have been exonerated, and at this stage allowing the bail application when further investigation is going on, it is not proper at the juncture to enlarge the applicant on bail. Even otherwise, at this juncture, the affidavit of the victim regarding threat perception is also one of the factor in declining the regular bail to the present applicant.

32. The present applicant is also praying for short term bail on certain grounds that his wife is no more died due to "Cancer" having two minor daughters. One is suffering from "Neuro Problem" and have old aged mother and there is no one in the family to look after them.

33. No doubt the offence in which the applicant has been chargesheeted is serious and ongoing further investigation by another Special Investigation Team (SIT) is at a critical stage which requires to investigate the involvement of other suspects, and granting regular bail at this stage poses a clear risk of

threatening, tampering and destruction of evidence and most importantly, this Court cannot ignore the genuine apprehension of threat to the victim.

34. So far as the Humanitarian approach is concerned, this Court must balance the stringent legal bar with humanitarian approach, particularly when, the applicant/accused faces following domestic problem:-

- (i) The wife passed away due to Cancer on 13.05.2024.
- (ii) Two minor daughters are deprived from parental care.
- (iii) One minor daughter is also suffering from neuro problem needed Psychological intervention.
- (iv) Old aged ailing mother, who is physically incapable to walk.
- (v) There is no other adult family member to look after daughters and manage the household or medical needs.

Therefore, in such a situation, the young children cannot be deprived of parental care due to incarceration of their father i.e. the present applicant, and simultaneously the old aged mother also cannot be deprived from proper basic needs, therefore, this Court take absolute humanitarian approach in granting short term bail for a limited period to the present applicant at this stage since further investigation is going on. Consequently, this Court passes the following orders:-

“(I) The application for seeking regular bail i.e. BA 1st No.1123 of 2026, stands dismissed.

(II) IA No.1 of 2026, seeking short term bail is allowed and the applicant is admitted to short term bail for a period of six weeks' from the date of his release, on his executing a personal bond of Rs.1.00 lacs and furnishing two reliable local sureties, each of the like amount to the satisfaction of the Court concerned, subject to the following conditions:

- (i) On completion of the tenure of short term bail, the applicant shall surrender to the court concerned.
- (ii) The applicant after being released on short term bail shall not contact, approach or threaten the victim or her family members directly or indirectly or via electronic media.
- (iii) The applicant shall not visit the vicinity of the victim's residence or workplace.
- (iv) The applicant shall fully cooperate with the new SIT, constituted by the Senior Superintendent of Police and shall report to the Head of the SIT as and when it requires and shall not leave the City without leave of the Head of SIT.
- (v) During the period of ongoing further investigation conducted by the new SIT, the applicant shall not approach to any other persons, who either named in the FIR or suspect in further investigation in any manner including via electronic media.
- (vi) The applicant shall hand over his passport (if any) to the Head of SIT forthwith.
- (vii) In violation of any of the condition as aforesaid would result to cancel the short term bail.

The copy of this order be forwarded to the Head of the SIT (Special Investigation Team) to whom the task of further investigation is given by the SSP.

(Rakesh Thapliyal, J.)

Nitesh/