



2026:AHC:201000

HIGH COURT OF JUDICATURE AT ALLAHABAD

**CRIMINAL MISC. ANTICIPATORY BAIL APPLICATION U/S 482 BNSS No.
- 9320 of 2026**

Navajis

.....Applicant(s)

Versus

State of U.P.

.....Opposite
Party(s)

Counsel for Applicant(s)	:	Srijan Pandey
Counsel for Opposite Party(s)	:	G.A., Manoj Kumar Mishra

Court No. - 72

HON'BLE VIVEK KUMAR SINGH, J.

1. Heard Sri Saurabh Pandey holding brief of Sri Srijan Pandey, learned counsel for the applicant, Sri Manoj Kumar Mishra, learned counsel for the informant, learned A.G.A. for the State and perused the record.

2. The present application has been filed on behalf of the applicant in Case Crime No.519/2025, under Sections 70(1), 123, 351(2), 87 B.N.S., Police Station-Behat, District Saharanpur, with a prayer to grant him anticipatory bail.

3. As per the prosecution case, the alleged incident is said to have taken place on 23.09.2025, whereas the FIR was lodged on 01.11.2025 after the recovery of the victim. The FIR was registered as Case Crime No. 0519 of 2025 at Police Station Behat, District Saharanpur, under Sections 87, 70(1), 351(2), and 123 of the BNS. It is alleged in the FIR that on 23.09.2025 at around 7-7:30 p.m., the applicant-Navajis came to the niece of the informant and told her that her father had met with an accident, believing which, the victim accompanied the applicant-Navajis. The victim was taken to a hotel by car, wherein the co-accused were already sitting. Thereafter, the victim was given a toxic substance, because of which she became unconscious and found herself later in a hotel, where she was raped by the applicant and the other co-accused. It is also alleged in the FIR that the accused persons kept the victim in Ghaziabad for more than a month and compelled her to sign some blank papers, and an obscene video was also made by the accused persons nominated in the

FIR. On 23.10.2025, the accused persons left the victim in Behat and threatened her with dire consequences.

4. It is the contention of the learned counsel for the applicant that the victim was a 19-year-old girl, as per the age certificate issued by the CMO, Saharanpur, on 07.11.2025. The victim and the applicant-Navajis were in love and decided to marry each other, but the family members of the victim were reluctant and against this marriage. The victim, on 23.09.2025, left her parental home out of her own sweet will and started residing with the applicant-Navajis, and on account of the love and affection for each other, the parties performed their marriage as per Muslim customs on 04.10.2025, which was later on got registered on 14.10.2025. A copy of the marriage registration certificate dated 14.10.2025 has been appended as Annexure No. 5 to the affidavit. It is next submitted that when the victim left her parental home, no missing report or FIR was lodged by her family members, since they knew that the victim had left her house on her own will and that the FIR was lodged for the first time after more than a month when the victim returned to her home.

5. It is next submitted that the family of the victim tried and again raised threats to life and limb against the applicant-Navajis and his family members. Therefore, the applicant-Navajis and the victim came to Allahabad for filing an appropriate writ petition, and photographs of the victim were clicked on 11.10.2025 at the Photo Identification Centre of the Allahabad High Court, a copy of which has been appended as Annexure No. 6 to the affidavit. However, no joint petition could be filed since the applicant-Navajis was called up by the police personnel of Police Station Behat, who asked him to produce the victim before them. The custody of the victim was forcibly taken by her family members in the presence of the police, and thereafter, a false FIR was lodged against the applicant and the other co-accused. It is further contended that the applicant-Navajis is still the lawful husband of the victim. The victim travelled to several places by train, bus, etc., but no alarm was raised by her, which goes to show that the victim was a consenting party with the applicant-Navajis and that no force, as alleged by the victim, was ever used by the applicant and the other co-accused. The marriage registration

certificate is still a vital legal document, which recognizes the validity of the marriage between the victim and the applicant-Navajis. Thus, when a valid marriage certificate subsists, then the allegation of rape, even if believed to be true, will not fulfill the essential ingredients of an offence under Section 70 of the BNS against the applicant-Navajis.

6. It is further contended by the learned counsel for the applicant that the applicant and the other co-accused approached this Court by way of filing a Criminal Misc. Writ Petition No. 26266 of 2025 with a prayer to quash the FIR, wherein the arrest of the applicant and others was stayed by the Division Bench of this Court till the filing of the charge sheet. The applicant has cooperated in the investigation, which has now been completed by the Investigating Officer. The statements of the victim have already been recorded under Sections 180 BNSS and 183 BNSS. The learned court concerned has taken cognizance of the offence vide order dated 22.05.2026; therefore, there is no requirement of custodial interrogation of the applicant. It is further submitted that no prima facie offence is made out against the applicant and the other co-accused. The Investigating Officer did not conduct a fair investigation. He did not try to ascertain the location of the hotel where the prosecutrix has claimed to have been raped for a period of one month. Furthermore, despite the grave allegation of the accused persons having got the victim's marriage registered under coercion, no attempt was made by the Investigating Officer to examine any of the officials of the concerned office. It is not the claim of the prosecution that a forged marriage certificate was obtained by the applicant-Navajis. The Investigating Officer did not try to collect the CCTV footage of the hotel, wherein the victim was allegedly detained and raped by the applicant and others. No call detail records of the applicant, co-accused, or the victim were obtained by the Investigating Officer so as to remotely connect them with the offence in question. The medical examination report of the victim does not corroborate the allegations; rather, it completely belies the version as alleged by the prosecutrix. In fact, the prosecutrix, after joining her family members, has levelled false, frivolous, and tutored allegations against the applicant and others with the sole motive of defeating the lawful claim of marriage by the applicant-Navajis. It is further submitted that the applicant has no

criminal antecedent to his credit.

7. Learned counsel for the applicant also contended that the applicant undertakes to cooperate during trial and shall appear as and when required by the court concerned. It has also been stated that, in case the applicant is granted anticipatory bail, he shall not misuse the liberty of bail, shall cooperate with the trial, and shall abide by all the conditions that may be imposed by the court.

8. Per contra, learned A.G.A. and learned counsel for the informant have opposed the application for anticipatory bail. It is submitted by learned counsel appearing on behalf of the informant that the allegations made in the FIR and the statements of the victim recorded under Sections 180 and 183 BNSS, a prima facie offence is made out against the applicant and other co-accused. The victim was gang raped in a hotel and, since she was under illegal detention of the applicant, no FIR could be lodged just after the incident.

9. I have heard rival submissions of the learned counsel for the parties and perused the records.

10. As per the allegation, the victim remained in the illegal confinement of the applicant and the other co-accused, but no prompt FIR was lodged by her family members in respect of the alleged abduction/missing of the victim. As per the documents available on record, the victim had travelled to Allahabad (Prayagraj). It is nowhere claimed by the prosecution that the marriage registration certificate dated 14.10.2025 is a forged document; rather, the victim admitted in her statement recorded under Section 183 BNSS that she went to an office where court marriage was written. Her photographs were clicked by an official of that office. A total of 4-5 officials were present in the office apart from the general public. The FIR was lodged after a long delay when the victim returned to her home. The arrest of the applicant was stayed by the Division Bench of this Court by a detailed order dated 18.02.2026 in Criminal Misc. Writ Petition No. 26266 of 2025. The aforesaid order dated 18.02.2026 is quoted hereinbelow:

"1. By means of this writ petition, a writ of certiorari has been prayed for

quashing the First Information Report dated 1.11.2025 which has given rise to Case Crime No.519 of 2025 under sections 87, 70(1), 351(2), 123 of Bharatiya Nyaya Sanhita, 2023, Police Station Behat, District Saharanpur.

2. The main allegation in the FIR was that on 23.9.2025, the petitioner no.1 had gone to the house of the niece of the first informant, whose name was Sana and the petitioner no.1 had told her that her father had met with an accident and believing this information to be correct, the informant's niece Sana accompanied the petitioner no.1 in a black vehicle which was parked near a close-by Madarsa. The petitioner nos.2, 3 and 4 were also inside the car. They gave a toxic substance to Sana because of which she became unconscious and found herself later in a hotel where she was raped by the accused. During the period which was of more than a month she was kidnapped, she was forced to make signatures on blank documents. Also, pornographic videos made of her. However, on 23.10.2025, the victim Sana was freed by the petitioners and thereafter she left for Behat, where the informant lived.

3. It is the contention of learned counsel for the petitioners that in fact the sequence of events which took place are quite different from that which was described in the FIR. Learned counsel submits that the fact of the matter was that Sana was a 19 year old lady and the petitioner no.1 was 24 years of age. As they were of different classes, the victim's family was not allowing the petitioner no.1 to get married to Sana and this had led the victim Sana to go with the petitioner no.1 of her own sweet will. Thereafter, they got married by muslim rites on 4.10.2025 and a certificate of marriage was also issued by the Masjid Vijay Nagar, Ghaziabad. The family members of petitioner no.1 were present at the time of marriage. The marriage was also got registered in the Marriage Registration Office, Ghaziabad on 14.10.2025. When the respondent no.3 came to know of the marriage, he started threatening the petitioners and, therefore, the petitioners had also complained on 8.10.2025 to the police. Thereafter the complaint dated 8.10.2025 was followed by many other complaints.

4. The case of the petitioners has further been that the petitioner no.1 and

the victim also came to Allahabad to file a writ petition for getting protection from the Allahabad High Court and for that purpose they had also got themselves photographed before Photo Identification Centre of Allahabad High Court for filing of affidavits. It has been alleged in the writ petition that while efforts were being made to file the writ petition, the respondent no.3, by influencing the police, took away the wife of the petitioner no.1 and handed her over to her family and thereafter the respondent no.3 had lodged the FIR on all wrong facts.

5. It is further the contention of the learned counsel for the petitioners that what happened in between the time the victim had left with the petitioner no.1 on 23.9.2025 till such time as the FIR was lodged, the Court may look into those facts as well and thereafter come to a proper conclusion. He in fact relied upon a judgment of the Supreme Court in Mahmood Ali & Ors. vs. State of U.P. & Ors. reported in AIR 2023 SC 370 and has submitted that when a complaint is sought to be quashed, it is permissible to look into the various materials available to assess what the complainant had alleged and whether any offence was made out even if the allegations are accepted in toto. He submitted that the applications which were moved by the petitioner no.1 and Sana, the alleged prosecutrix, were all supported by photographs and postal receipts. He thereafter has submitted that the FIR was dated 1.11.2025 whereas the victim had gone with the petitioner no.1 on 23.9.2025. Though rape etc. had been alleged but she had left for her parental village without any harm or injury. He submits that the statement of the victim/prosecutrix under section 183 of Bharatiya Nagarik Suraksha Sanhita, 2023 was given under duress and she had stated that she had stayed at Ghaziabad for a whole one month and had also gone to Allahabad to file a writ petition and had also got herself photographed. Learned counsel further submitted that the registration of the marriage was also a vital evidence which went to show that the petitioner no.1 and the prosecutrix were married.

6. Sri Chaudhary Dil Nisar, learned counsel appearing for respondent no.3, however, has submitted that the allegations made in the FIR could not go behind the averments made in the FIR and relied upon the judgments of the Supreme Court in State of Telangana Vs. Habib Abdullah Jellani, (2017) 2 SCC 779 and Neeharika Infrastructure Pvt.

Ltd. vs. State of Maharashtra and Others, (2021) SCC Online SC 315. He has submitted that when the niece of the respondent no.3 namely Sana was doped and was under the influence of the various medications etc. and thus during this period she could have done just anything, then it did not give any right to the petitioners to say that the FIR was wrongly filed and it be quashed. He further submitted that the statement under section 183 of BNSS prima facie discloses cognizable offences which were made in the FIR and no interference be made in the writ petition.

7. In rejoinder, learned counsel for the petitioners submitted that when there were such grey areas which required investigation and when the victim herself is now with her parents and when the question of doping and medications etc. had to be looked into then no useful purpose would be served by investigating the case after arresting the petitioners. To support this argument, learned counsel for the petitioners relied upon a judgment of this Court dated 10.07.2024 passed in Criminal Misc. Writ Petition No. 7463 of 2024 (Shobhit Nehra and Anr. vs. State of Uttar Pradesh & 2 Ors.).

8. Having heard Sri Srijan Pandey, learned counsel for the petitioners and Sri Chaudhary Dil Nisar, this Court is of the view that definitely a bare perusal of the FIR shows commission of a cognizable offence and once that is disclosed, there is very little scope of interference by this Court to quash the FIR. However, we are definitely of the view that the investigation is required in the case so as to crease out the grey areas as to whether there was any doping etc. on the victim Sana.

9. We are conscious of the fact that the High Court has wide powers under Article 226 of the Constitution of India to prevent any miscarriage of justice and thus to ensure that no injustice is caused to the petitioners, in the event they are found to be innocent after the investigation, we are passing this order. This could definitely be a case where it may be found after investigation that the offences were not made out at all and, therefore, relying on the judgment of Supreme Court in Hema Mishra vs. State of Uttar Pradesh & Ors. reported in (2014) 4 SCC 453 we also give the requisite protection to the petitioners. Here, it would also be relevant to reproduce paragraph no. 43 of the judgment of this Court in Shobhit

Nehra (Supra) and the same is, therefore, being reproduced here as under :

"43. It is clear from the above paragraph that in the case where facts are hazy and the investigation has just begun, High Court should permit the investigation to proceed. In case the High Court stays further investigation it should assign reasons. We are not staying the investigation but it appears from the material on record that in present case implication of petitioners may be found to be false, therefore, their right to liberty is required to be protected during the period of statutory investigation in the allegations made against them in the FIR. Investigation can be stayed in this case but that would come in the way of speedy investigation which in requirement of criminal administration of justice as held by Apex Court in the above paragraph. We do not intend to delay the investigation proceedings at all but for the reasons given above intend to protect the petitioners from arrest till investigation against them is completed by police."

10. Under such circumstances, we are of the view that now the investigation may be undertaken in full swing. However, till the charge sheet is submitted, the petitioners shall not be arrested.

11. This order we are specifically passing since there was no allegation with regard to any harm being caused to the private respondent or the family during the time the victim went with the petitioners and thereafter was handed over to the respondent no.3.

12. The writ petition, accordingly, stands disposed of."

11. The investigation is complete in this matter. There is no allegation that the applicants did not cooperate in the investigation. There is no requirement of custodial interrogation of the applicants. It is further submitted that the other co-accused, namely, Arif, Suhail and Bahdood Khan @ Nadeem have been granted anticipatory bail by this Court vide order dated 16.9.2026 in Criminal Misc. Anticipatory Bail Application u/s 482 BNSS No. 9207 of 2026.

12. In **Aman Preet Singh v. CBI, (2022) 13 SCC 764**, the Hon'ble Apex Court has held that :

"11. A reading of the aforesaid shows that it is the guiding principle for a Magistrate while exercising powers under Section 170CrPC which had been set out. The Magistrate or the Court empowered to take cognizance or try the accused has to accept the charge-sheet forthwith and proceed in accordance with the procedure laid down under Section 173CrPC. It has been rightly observed that in such a case the Magistrate or the Court is required to invariably issue a process of summons and not warrant of arrest. In case he seeks to exercise the discretion of issuing warrants of arrest, he is required to record the reasons as contemplated under Section 87 Cr.P.C that the accused has either been absconding or shall not obey the summons or has refused to appear despite proof of due service of summons upon him. In fact the observations in sub-para (iii) above by the High Court are in the nature of caution.

12. Insofar as the present case is concerned and the general principles under Section 170Cr.P.C, the most apposite observations are in sub-para (v) of the High Court judgment in the context of an accused in a non-bailable offence whose custody was not required during the period of investigation. In such a scenario, it is appropriate that the accused is released on bail as the circumstances of his having not been arrested during investigation or not being produced in custody are itself sufficient to entitle him to be released on bail. The rationale has been succinctly set out that if a person has been enlarged and free for many years and has not even been arrested during investigation, to suddenly direct his arrest and to be incarcerated merely because charge-sheet has been filed would be contrary to the governing principles for grant of bail. We could not agree more with this."

13. Hence, considering the settled principles of law regarding anticipatory bail, submissions of the learned counsel for the parties, nature of accusation, role of applicant and all attending facts and circumstances of the case, without expressing any opinion of the merits of the case, in my view, it is a fit case for anticipatory bail to the applicant till conclusion of trial in the matter.

14. Accordingly, the anticipatory bail application is **allowed** with following directions:-

(i) In the event of arrest of the applicant-**Navajis** involved in the aforesaid case, he shall be released on anticipatory bail till the conclusion of trial, on his furnishing a personal bond of Rs.50,000/- with two sureties each of the like amount to the satisfaction of the court concerned.

(ii) The applicant shall co-operate during trial and shall report to the court concerned as and when required for the purpose of fair trial.

(iii) The applicant shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court; and

(iv) The applicant shall not leave India without the previous permission of the Court.

15. In default or misuse of any of the conditions, the Public Prosecutor/ Investigating Officer/ first informant-complainant is at liberty to file appropriate application for cancellation of anticipatory bail granted to the applicant, before the concerned court.

(Vivek Kumar Singh,J.)

September 24, 2026

Lalit Shukla