2026:AHC:209966

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. ANTICIPATORY BAIL APPLICATION U/S 482 BNSS No. - 7445 of 2026

Chand And 4 Others

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite Party(s)

Counsel for Applicant(s)	:	Abhas Sharma, Rajesh Kumar Sharma
Counsel for Opposite Party(s)	:	Chandra Kant Tripathi, G.A., Narendra Kumar Singh

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Court No. - 71

HON'BLE VIVEK KUMAR SINGH, J.

1. Heard Sri Abhas Sharma, learned counsel for the applicants, Sri Chandra Kant Tripathi alongwith Sri Narendra Kumar Singh, learned counsel for opposite party no.2/ informant, learned A.G.A for the State and perused the record.

2. The present application has been filed on behalf of the applicants in Case Crime No.169 of 2026, under Sections 191(2), 115(2), 118(1), 352, 351(3), 109(1) BNS, Police Station -Mussorie, District Ghaziabad, with a prayer to grant them anticipatory bail.

3. Learned counsel for the applicants submits that the applicants are absolutely innocent and have been falsely implicated in the present case. They have nothing to do with the alleged offence; in spite of that, the police are trying to arrest them. The alleged incident is said to have taken place on 27.05.2026 at 21:00 hours, whereas the FIR was lodged on the next day, i.e., on 28.05.2026 at 16:22 hours. The applicants, who are five in number, along with co-accused Kuntu, have been nominated in the FIR. General allegations have been levelled in the FIR against the accused persons. A specific allegation has been levelled against co-accused Kuntu when the witnesses were examined under Section 180 of the BNSS. It is further submitted that there is an unexplained delay of about 19 hours in lodging the FIR. Learned counsel further submits that it is true that four persons sustained injuries from the informant's side, but three persons

from the applicants' side also sustained injuries in the same incident. There is a cross-version of the incident, and the prosecution has failed to explain the injuries sustained by three individuals from the applicants' side. It is further contended that all the injuries are simple in nature. Injured Chand sustained an incised wound over his person, which was attributed to co-accused Kuntu, who has been granted regular bail by a Coordinate Bench of this Court vide order dated 01.09.2026 in Criminal Misc. Bail Application No. 29319 of 2026. It is further contended that Section 109(1) of the BNS has been wrongly invoked in order to send the applicants behind bars. However, no prima facie offence under Section 109(1) of the BNS is made out against the applicants. The criminal antecedents of applicant no. 3 have been explained in the supplementary affidavit dated 03.08.2026. Applicant nos. 1, 2, 4 and 5 have no criminal antecedents to their credit. Learned counsel for the applicants further submits that the applicants undertakes to cooperate during investigation and trial and shall appear as and when required by the Investigating Agency or the Court concerned. It has also been stated that, in case the applicants are granted anticipatory bail, they shall not misuse the liberty of bail, shall cooperate with the investigation, and shall abide by all the conditions that may be imposed by the Court.

4. On the other hand, learned A.G.A. and learned counsel for the informant have opposed the application for anticipatory bail, however, they do not dispute the factual aspect.

5. I have heard the rival submissions of both sides and perused the record.

6. In **Sushila Aggarwal and others vs. State (NCT of Delhi) and another, (2020) 5 SCC 1**, the Hon'ble Apex Court has held that while considering an application for grant of anticipatory bail, the court has to consider the nature of the offence, the role of the person, the likelihood of his influencing the course of investigation, or tampering with evidence including intimidating witnesses, likelihood of fleeing justice, such as leaving the country, etc. It has further been held that Courts ought to be generally guided by considerations such as the nature and gravity of the offences, the role attributed to the applicant, and the facts of the case,

while considering whether to grant anticipatory bail, or refuse it. Whether to grant or not is a matter of discretion.

7. In **Siddharth Vs. State of Uttar Pradesh & Another, (2022) 1 Supreme Court Cases 676**, the Hon'ble Apex Court has held that personal liberty is an important aspect of our constitutional mandate. The occasion to arrest an accused during investigation arises when custodial investigation becomes necessary or it is a heinous crime or where there is a possibility of influencing the witnesses or accused may abscond. Merely because an arrest can be made because it is lawful does not mandate that arrest must be made. A distinction must be made between the existence of the power to arrest and the justification for exercise of it. If arrest is made routine, it can cause incalculable harm to the reputation and self-esteem of a person. If the Investigating Officer has no reason to believe that the accused will abscond or disobey summons and has, in fact, throughout cooperated with the investigation, then there is no compulsion on the officer to arrest the accused.

8. Considering the settled principle of law regarding anticipatory bail, submissions of the learned counsel for the parties, nature of accusation, role of applicants and all attending facts and circumstances of the case, without expressing any opinion on merits, a case for anticipatory bail is made out.

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

(i) In the event of arrest of the applicants- **Chand, Firoj, Mustkeem, Jiyaul and Haneefa**, involved in the aforesaid case, they shall be released on anticipatory bail till the conclusion of trial, on their furnishing personal bond of Rs.50,000/- with two sureties each of the like amount to the satisfaction of the Station House Officer of the police station concerned or the court concerned.

(ii) The applicants shall co-operate with the Investigating Officer during investigation and shall report to the Investigating Officer as and when required for the purpose of conducting investigation;

(iii) The applicants 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 her/him from disclosing such facts to the Court or to any police officer; and

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

10. 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 applicants, before the concerned court.

(Vivek Kumar Singh,J.)

October 7, 2026
Radhika

Digitally signed by :-
RADHIKA VISHWAKARMA
High Court of Judicature at Allahabad