HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. ANTICIPATORY BAIL APPLICATION U/S 482 BNSS No. - 6519 of 2025

Manoj Singh And 2 Others

.....Applicant(s)

Versus

State of U.P.

.....Opposite Party(s)

Counsel for Applicant(s)	:	Shravan Kumar Mishra, Vimlendu Tripathi
Counsel for Opposite Party(s)	:	Ankit Srivastava, G.A., Mrigank Shekhar Singh

Court No. - 71

HON'BLE VIVEK KUMAR SINGH, J.

1. Heard Shri Vimlendu Tripathi, learned Advocate alongwith Shri Shravan Kumar Mishra, learned counsel for the applicants, Sri Mrigank Shekhar Singh, 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 applicants in Case Crime No.187 of 2025, under Sections 115(2), 352, 351(3), 109, 3(5) BNS, Police Station Didarganj, District Azamgarh, with a prayer to grant them anticipatory bail.

3. The present anticipatory bail application on behalf of the applicant no.1-Manoj Singh has already been dismissed as withdrawn vide order dated 27.08.2025. Now, the order is being passed by this Court in respect of applicant no.2-Santosh Singh and applicant no.3-Jaynath Mishra.

4. The prosecution case, in brief, is to the effect that a first information report was lodged against the applicants and 3 other co-accused on 07.07.2025 at 21:22 hours, under Sections 115(2), 352, 351(3), 109, 3(5) BNS, at Police Station Didarganj, District Azamgarh in respect of alleged incident committed on 07.07.2025 at 18:00. As per the allegations contained in the FIR, the applicants and other co-accused caused injuries to the informant Dhruv Narain Singh and one Kamlesh Singh with the intention to cause their death.

5. 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 the applicants. It is further submitted that the applicants and three other co-accused are alleged to have assaulted the informant and his brother Kamlesh Singh. As per the medical report of the informant, he received three injuries, which were referred for C.T. Scan. As per C.T. Scan report, fracture was noted on the person of the injured-Dhurv Narain Singh. The other injured Kamlesh Singh received one injury on non vital part of the body, which was referred to for X-Ray examination. However, no X-ray report is available in the case diary. General and omnibus allegations have been levelled against the applicants. No specific role has been attributed to them. A prior dispute was already going on between the parties and on account of that enmity, they have been falsely implicated.

6. It is next submitted by the learned counsel for the applicant that in the alleged incident from the side of the applicants, four persons, including the applicants also received injuries. A complaint was sent by the applicants to the police authorities for registration of the FIR on 15.07.2025. When the FIR from the side of the applicant was not registered, they moved an application under Section 175(3) BNSS for registration of the FIR against the informant and other persons. The said application is still pending consideration before the court concerned. The exact role of the applicants has not been attributed, therefore, they should be enlarged on anticipatory bail. The criminal antecedents of the applicants have been explained in the affidavit.

7. It is further submitted by the learned counsel for the applicants that explanation. in respect of injuries sustained by the applicants have not been given by the prosecution. The applicants were granted interim anticipatory bail by this Court vide order dated 27.08.2025, and they are regularly appearing before the learned trial court. They are cooperating in the trial and statement of PW-1 has been recorded. Therefore, the interim anticipatory bail granted earlier on 27.08.2025, should be extended and the applicants be enlarged on anticipatory bail till concussion of trial.

8. Per contra, learned counsel for the informant as well as learned AGA

for the State have opposed the prayer for anticipatory bail and submitted that the trial of the applicants is not going on; they put their appearance before the learned Magistrate on 06.07.2026, which is clear from perusal of the order-sheet of the present case, appended as Annexure-SA-5 to the second supplementary affidavit dated 30.08.2026. The case of the applicants has not been committed to the court of sessions. The statement of PW-1 has been recorded in case of co-accused.

9. It is further contended that regular bail application of the co-accused Manoj Singh has been dismissed by a co-ordinate Bench of this Court vide order dated 06.04.2026 in Criminal Misc. Bail Application No.2015 of 2026, a copy of the order dated 06.04.2026 has been appended as Annexure-1 to the counter affidavit dated 14.09.2026. The applicants have been nominated in the FIR and role of causing injuries on the injured is assigned to the present applicants along with the other co-accused persons.

10. It is further contended that the charge-sheet was submitted against the applicants and they challenged the charge-sheet before this Court by way of filing an Application U/S 528 BNSS No.49558 of 2025. The aforesaid application for quashing the impugned charge-sheet was not entertained by this Court vide order dated 27.01.2026. It is next contended that the applicants have not approached this Court with clean hands. The criminal antecedents of the applicants have not been properly explained by them despite having been granted a proper opportunity to them. The applicant no.2 was an accused in Case Crime No.265 of 2024, which material fact was not disclosed by him in the present anticipatory bail application. No FIR was registered from the side of the applicants and their injuries are superficial in nature. There is no burden on the prosecution to explain the superficial injuries allegedly sustained by the applicants' side. He further submitted that anticipatory bail application of the applicants be dismissed and the interim order dated 27.08.2025 be vacated.

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

12. As per the allegations contained in the FIR, the applicants alongwith the other co-accused are alleged to have assaulted the informant and his brother

Kamlesh Singh. The C.T. Scan report of the informant Dhruv Narain Singh reveals that he sustained fracture on his person. The following injuries were noted in the injury report of injured Dhruv Narain Singh:-

> *"Displaced fracture of lateral wall of right orbit.*
> *Displaced fracture of right zygomatic arch.*
> *Displaced fracture of anterior and posterior wall of right maxillary sinus.*
> *Changes of mild generalized cerebral atrophy age related."*

13. The role of causing injuries to the injured has been attributed to the present applicants alongwith the other co-accused persons. The regular bail application of co-accused Manoj Singh has already been rejected by the co-cordinate Bench of this Court vide order dated 06.04.2026. The injured persons have categorically stated that the applicants caused injuries to them. A *prima facie* case is made out against the applicants.

14. In the case of **Srikant Upadhyay and Others vs. State of Bihar and Another, (2024) 12 SCC 382**, the Hon'ble Supreme Court has held that the power to grant anticipatory bail is an extraordinary power. While called upon to exercise the said power, the Court has to be very cautious as the grant of interim protection or protection to the accused in serious cases may lead to miscarriage of justice. When warrant of arrest or proclamation is issued, the applicant is not entitled to invoking extraordinary power. The relevant paragraph no. 30 of **Srikant Upadhyay (supra)** is quoted as under:

> *"30. We have already held that the power to grant anticipatory bail is an extraordinary power. Though in many cases it was held that bail is said to be a rule, it cannot, by any stretch of imagination, be said that anticipatory bail is the rule. It cannot be the rule and the question of its grant should be left to the cautious and judicious discretion by the Court depending on the facts and circumstances of each case. While called upon to exercise the said power, the Court concerned has to be very cautious as the grant of interim protection or protection to the accused in serious cases may lead to miscarriage of justice and may hamper the investigation to a great extent as it may sometimes lead to tampering or distraction of the evidence. We shall not be understood to have held that the Court shall not pass an interim protection pending consideration of*

such application as the Section is destined to safeguard the freedom of an individual against unwarranted arrest and we say that such orders shall be passed in eminently fit cases. At any rate, when warrant of arrest or proclamation is issued, the applicant is not entitled to invoke the extraordinary power. Certainly, this will not deprive the power of the Court to grant pre-arrest bail in extreme, exceptional cases in the interest of justice. But then, person(s) continuously, defying orders and keep absconding is not entitled to such grant."

15. In the case of **P. Chidambaram vs. Directorate of Enforcement, (2019) 9 SCC 24**, the Hon'ble Apex Court has held that arrest is a part of procedure of the investigation to secure not only the presence of the accused but several other purposes. The power under Section 438 of Cr.P.C./482 of B.N.S.S. has to be exercised sparingly. The privilege of the pre-arrest bail should be granted only in exceptional cases. The relevant paragraph no. 69 of **P. Chidambaram (supra)** is reproduced as under:

"69. Ordinarily, arrest is a part of procedure of the investigation to secure not only the presence of the accused but several other purposes. Power under Section 438 Cr.P.C. is an extraordinary power and the same has to be exercised sparingly. The privilege of the pre-arrest bail should be granted only in exceptional cases. The judicial discretion conferred upon the court has to be properly exercised after application of mind as to the nature and gravity of the accusation; possibility of the applicant fleeing justice and other factors to decide whether it is a fit case for grant of anticipatory bail. Grant of anticipatory bail to some extent interferes in the sphere of investigation of an offence and hence, the court must be circumspect while exercising such power for grant of anticipatory bail. Anticipatory bail is not to be granted as a matter of rule and it has to be granted only when the court is convinced that exceptional circumstances exist to resort to that extraordinary remedy. "

16. It would be apposite to refer herein to a judgment of the Hon'ble Supreme Court titled as **Kishor Vishwasrao Patil vs. Deepak Yashwant Patil and another, 2022 SCC OnLine SC 2528**, relevant paragraph nos.14 and 15 whereof read as under:

"14.....

74. Ordinarily, arrest is a part of the process of the investigation intended to secure several purposes. There may be circumstances in which the accused may provide information leading to discovery of material facts and relevant information. Grant of anticipatory bail may hamper the investigation, Pre-arrest bail is to strike a balance between the individual's right to personal freedom and the right of the investigating agency to interrogate the accused as to the material so far collected and to collect more information which may lead to recovery of relevant information.....

6.....

75. Observing that the arrest is a part of the investigation intended to secure several purposes, in ***Adri Dharan Das v. State of W.B. [Adri Dharan Das v. State of W.B., (2005) 4 SCC 303: 2005 SCC (Cri) 933]****, it was held as under: (SCC p. 313, para 19)*

> *"19. Ordinarily, arrest is a part of the process of investigation intended to secure several purposes. The accused may have to be questioned in detail regarding various facets of motive, preparation, commission and aftermath of the crime and the connection of other persons, if any, in the crime. There may be circumstances in which the accused may provide information leading to discovery of material facts. It may be necessary to curtail his freedom in order to enable the investigation to proceed without hindrance and to protect witnesses and persons connected with the victim of the crime, to prevent his disappearance, to maintain law and order in the locality. For these or other reasons, arrest may become an inevitable part of the process of investigation. The legality of the proposed arrest*

> *cannot be gone into in an application under Section 438 of the Code. The role of the investigator is well defined and the jurisdictional scope of interference by the court in the process of investigation is limited. The court ordinarily will not interfere with the investigation of a crime or with the arrest of the accused in a cognizable offence. An interim order restraining arrest, if passed while dealing with an application under Section 438 of the Code will amount to interference in the investigation, which cannot, at any rate, be done under Section 438 of the Code."*

76. In ***Siddharam Satlingappa Mhetre v. State of Maharashtra and Others, (2011) 1 SCC 694: (2011) 1 SCC (Cri) 514]****, the Supreme Court laid down the factors and parameters to be considered while dealing with anticipatory bail. It was held that the nature and the gravity of the accusation and the exact role of the accused must be properly comprehended before arrest is made and that the court must evaluate the available material against the accused very carefully. It was also held that the court should also consider whether the accusations have been made only with the object of injuring or humiliating the applicant by arresting him or her.*

77. After referring to ***Siddharam Satlingappa Mhetre [Siddharam Satlingappa Mhetre v. State of Maharashtra, (2011) 1 SCC 694: (2011) 1 SCC (Crl) 514]*** *and other judgments and observing that anticipatory bail can be granted only in exceptional circumstances, in* ***Jai Prakash Singh v. State of Bihar [Jai Prakash Singh v. State of Bihar, (2012) 4 SCC 379: (2012) 2 SCC (Cri) 468]****, the Supreme Court held as under: (SCC p. 386, para 19)*

> *"19. Parameters for grant of anticipatory bail in*

a serious offence are required to be satisfied and further while granting such relief, the court must record the reasons therefor. Anticipatory bail can be granted only in exceptional circumstances where the court is prima facie of the view that the applicant has falsely been enroped in the crime and would not misuse his liberty. ***(See D.K. Ganesh Babu v. P.T. Manokaran [D.K. Ganesh Babu v. P.T. Manokaran, (2007) 4 SCC 434 :(2007) 2 SCC (Cri) 345], State of Maharashtra v. Mohd. Sajid Husain Mohd. S. Husain [State of Maharashtra v. Mohd. Sajid Husain Mohd. S. Husain, (2008) 1 SCC 213: (2008) 1 SCC (Cri) 176] and Union of India v. Padam Narain Aggarwal [Union of India v. Padam Narain Aggarwal, (2008) 13 SCC 305: (2009) 1 SCC (Cri) 1].)****"*

Economic offences

78. Power under Section 438 CrPC being an extraordinary remedy, has to be exercised sparingly; more so, in cases of economic offences. Economic offences stand as a different class as they affect the economic fabric of the society. In ***Directorate of Enforcement v. Ashok Kumar Jain [Directorate of Enforcement v. Ashok Kumar Jain, (1998) 2 SCC 105: 1998 SCC (Cri) 510]****, it was held that in economic offences, the accused is not entitled to anticipatory bail."*

15. In ***Sushila Agrawal and others v. State (NCT of Delhi) and Another reported in (2020) 5 SCC 1****, Constitution Bench of this Court held that while considering an application for grant of pre-arrest 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 or likelihood of fleeing justice. The Court held:-*

"92.4. 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; equally whether and if so, what kind of special conditions are to be imposed (or not imposed) are dependent on facts of the case, and subject to the discretion of the court."*

17. As per the allegations put forth in the FIR, serious allegations have been levelled against the applicants. Learned counsel for the applicants has failed to demonstrate that the case registered against them is false. At this stage, there is no material on record to hold that a *prima facie* case is not made out against the applicants. The material that has come on record and the preliminary investigation, appears to establish a reasonable basis for the accusations.

18. In view of this Court, the parameters of granting regular bail and anticipatory bail are different and it is not necessary that the grounds which are sufficient to enlarge an accused on regular bail must also be sufficient to enlarge them on anticipatory bail. Further, the Constitution Bench of the Apex Court in the case of **Gurbaksh Singh Sibbia and others Vs. State of Punjab, (1980) 2 SCC 565** also observed that the power to grant anticipatory bail is an extraordinary power and therefore, in view of this Court being extraordinary power it cannot be used in routine manner.

19. Therefore, considering the facts and circumstances of the case discussed above, in my view, applicants are not entitled to be released on anticipatory bail.

20. Accordingly, the instant anticipatory bail application stands **dismissed**.

(Vivek Kumar Singh,J.)

October 28, 2026
Nitendra

Digitally signed by :-
NITENDRA TIWARI
High Court of Judicature at Allahabad