2026:AHC:211681

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. ANTICIPATORY BAIL APPLICATION U/S 482 BNSS No. - 8230 of 2026

Mukesh And Another

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite Party(s)

Counsel for Applicant(s)	:	Vivek Kumar Tiwari
Counsel for Opposite Party(s)	:	G.A.

Court No. - 71

HON'BLE VIVEK KUMAR SINGH, J.

1. Heard learned counsel for the applicant no.1, learned A.G.A for the State and perused the record.

2. The present application has been filed on behalf of the applicant no.1-Mukesh, in Case Crime No.101 of 2026, under Sections 109, 115(2), 191(2), 351(2) and 352 of the Bharatiya Nyaya Sanhita, Police Station - Pawara, District Jaunpur, with a prayer to grant him anticipatory bail.

3. Learned counsel for applicant no. 1 submits that applicant no. 1 is absolutely innocent and has been falsely implicated in the present case. He has nothing to do with the alleged offence, despite which the police are trying to arrest him. The applicant and five others were nominated in the present FIR, registered as Case Crime No. 101 of 2026, which was lodged as a counterblast to the FIR in Case Crime No. 100 of 2026 from the applicant's side. General and omnibus allegations have been levelled in the FIR of Case Crime No. 101 of 2026 against the applicant and other co-accused, including Rahul Yadav, who has already been enlarged on anticipatory bail by this Court vide order dated 08.09.2026. As per the injury report, the injured Shamshad has received a linear undisplaced skull fracture of the right parieto-temporal bone, but the said injury has not been specifically attributed to the applicant. The applicant claims parity with co-accused Rahul Yadav. He has one criminal antecedent, which has been explained in the supplementary affidavit. Learned counsel for the applicant further submits that the applicant 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 applicant is granted anticipatory bail, he 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. has opposed the application for anticipatory bail, however, he does 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 applicant no.1 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** in respect of applicant no.1 also with the following directions:-

(i) In the event of arrest of the applicant no.1- **Mukesh**, 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 Station House Officer of the police station concerned or the court concerned.

(ii) The applicant no.1 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 applicant no.1 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 applicant no.1 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 applicant no.1, before the concerned court.

(Vivek Kumar Singh,J.)

October 8, 2026
Radhika

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