2026:AHC:209110

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. ANTICIPATORY BAIL APPLICATION U/S 482 BNSS No. - 9200 of 2026

Deepak

.....Applicant(s)

Versus

State of U.P.

.....Opposite Party(s)

Counsel for Applicant(s) : Mohit Singh, Siddharth Chaudhary, Sr. Advocate

Counsel for Opposite Party(s) : G.A.

Court No. - 71

HON'BLE VIVEK KUMAR SINGH, J.

1. Heard learned counsel for the applicant and 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. 230 of 2020, under Sections 304b, 498-A, 323 of I.P.C. and Section 3/4 of D.P. Act, Police Station Jahangirabad, District Bulandshahar, with a prayer to grant him anticipatory bail.

3. This is the second anticipatory bail application. The First Anticipatory Bail Application U/S 438 of Cr.P.C. No. 10445 of 2021 was dismissed as withdrawn vide order dated 29.08.2022.

4. Learned counsel for the applicant submits that the applicant is absolutely innocent and has been falsely implicated in the present case. He has nothing to do with the alleged offence in spite of that the police are trying to arrest the applicant. The applicant along with other co-accused were nominated in the first information report dated 20.05.2020. It is alleged in the first information report that the applicant and other co-accused participated in the alleged offence. The chargesheet was submitted against Smt. Maya, Room Singh on 24.08.2020. Thereafter, a supplementary chargesheet was submitted against co-accused Gaurav, Smt. Pooja, on 25.03.2021. The co-accused Saurabh was also chargesheetedon 09.09.2021. The name of the applicant was exonerated

from the chargesheet which is clear from perusal of the police report dated 02.07.2025, appended at page no. 155 of the application, wherein it is mentioned that the name of the applicant was exonerated on 30.11.2021. The learned Magistrate took cognizance of the offence and thereafter the case was committed to the court of sessions, where charges were framed upon the co-accused. They pleaded not guilty and claimed to be tried. It is further submitted that after framing of charges, the prosecution adduced evidence and statements of PW-1 Mandeep (brother of the deceased) and PW-2 Smt. Rajni (mother of the deceased) were recorded during the course of trial and thereafter the application under Section 319 Cr.P.C. / 358 BNSS was moved by the prosecution to summon the applicant to face criminal trial. The said application moved under Section 319 Cr.P.C. / 358 BNSS was allowed by the learned trial court vide order dated 16.02.2026. The summoning order dated 19.02.2026 attained its finality.

5. It is further submitted by the learned counsel for the applicant that the applicant is brother-in-law (dewar) of the deceased and on the date of the incident, he was about 17 years 10 months and 14 days old, inasmuch as, his date of birth is 05.07.2002 and the incident took place on 19.05.2020. General and omnibus allegations have been levelled in the F.I.R. Even during course of investigation, the aforesaid witnesses did not allege that any specific act was done by the applicant. As per post-mortem report, cause of death was asphyxia due to ante-mortem hanging. The applicant has no role to play in suicidal death of the deceased; he was a student at the time of alleged incident. The other co-accused have been enlarged on regular bail.

6. It is further submitted by the learned counsel for the applicant that the applicant was exonerated by the Investigating Officer and, prima facie, his complicity in the alleged offence was not found after due investigation. The applicant has been summoned in the present case on the whims of the prosecution. The applicant is ready to face criminal trial. The investigation has already been completed in this matter and no complicity of the applicant in the alleged offence was found. There is no requirement of custodial interrogation of the applicant. The applicant has no criminal history to his credit. Learned counsel for the applicant further

submits 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 court, and shall abide by all the conditions that may be imposed by the Court.

7. On the other hand, learned A.G.A. has opposed the application for anticipatory bail, however, he does not dispute the factual aspect. The Investigating Officer was bluffed by the applicant, therefore, no charge-sheet was submitted against him though he was nominated in the first information report.

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

9. The applicant was nominated in the first information report but no charge-sheet was submitted against him. The complicity of the applicant was not found by the Investigating Officer in the alleged crime. He has been summoned by the learned trial court to face criminal trial by exercising powers under Section 319 Cr.P.C. / 358 BNSS and there is no requirement of custodial interrogation of the applicant. Considering the submissions made by learned counsel for the parties, this Court is of the view that the applicant has made out a case for grant of anticipatory bail.

10. 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. In sofar 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."

11. Considering the settled principle 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 on merits, and the case of the applicant is squarely covered by the aforesaid judgments, a case for anticipatory bail is made out.

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

(i) In the event of arrest/appearance of the applicant- **Deepak** involved in aforesaid case shall be released on anticipatory bail till the conclusion of trial, before the competent Court 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.

13. 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.)

October 6, 2026
A.P. Pandey

Digitally signed by :-
ANAND PRAKASH PANDEY
High Court of Judicature at Allahabad