2026:AHC:209019

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. ANTICIPATORY BAIL APPLICATION U/S 482 BNSS No. - 9776 of 2026

Vikas Prasad And 2 Others

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite Party(s)

Counsel for Applicant(s) : Mohd Kashif, Nikhil Mishra, Upendra Nath Pandey

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

Court No. - 71

HON'BLE VIVEK KUMAR SINGH, J.

1. Heard learned counsel for the applicants and 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. 332 of 2026, under Sections 85, 89, 115(2), 316(2), 351(2) of B.N.S. and Section 3 and 4 of D.P. Act, Police Station - New Agra, Agra Commissionerate, District Agra, 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 the applicants. The alleged incident is said to have taken place between 21.02.2023 and 08.03.2026, whereas the F.I.R. was lodged after a long delay on 20.08.2026. It is further contended that the F.I.R. dated 20.08.2026, is a reason of counter-blast to the divorce petition filed by the applicant no. 1, on 10.03.2026. The victim filed a Transfer Petition (Civil) No. 1972 of 2026, before Hon'ble Supreme Court of India, wherein notice was issued to the applicant no. 1, vide order dated 17.07.2026 and all further proceedings *inter-se* the parties arising out of matrimonial discord was stayed. It is further submitted that in order to nullify the order dated 17.07.2026 passed by Hon'ble Supreme Court of India, the present F.I.R. dated 20.08.2026, has been lodged by the victim of the present case. In fact,

no offence as alleged in the F.I.R. has ever been committed by the applicants and false allegations have been levelled against them. It is further submitted that fetus was aborted on account of medical exigencies in order to save the life of the first informant through a surgical procedure. As per the medical report, there was no miscarriage. A matrimonial dispute has been wrongly and illegally dragged into criminal courts. The applicants have no criminal history to their credit. Learned counsel for the applicants further submits that the applicants undertake 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. 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 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- **Vikas Prasad, Vinay Prasad, Seema Devi** involved in aforesaid case shall be released on anticipatory bail till the conclusion of trial, on their 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 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 6, 2026
A.P. Pandey

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