2026:AHC:210955

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. ANTICIPATORY BAIL APPLICATION U/S 482 BNSS No. - 10163 of 2026

Hamza Miyan @ Haidar Ali Khan

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite Party(s)

Counsel for Applicant(s)	:	Laxmi Kant Bhatt
Counsel for Opposite Party(s)	:	G.A.

Court No. - 71

HON'BLE VIVEK KUMAR SINGH, J.

1. Supplementary affidavit filed today is taken on record.

2. Heard learned counsel for the applicant, learned A.G.A for the State and perused the record.

3. The present application has been filed on behalf of the applicant in Case Crime No. 95A of 2014, under Sections 147, 148, 149, 307, 452, 323, 504, 506, 188 I.P.C., Police Station - Ganj, District Rampur, with a prayer to grant him anticipatory bail.

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 which the police are trying to arrest him. It is further submitted that no one is said to have received a firearm injury, and the applicant has not been assigned any role of opening fire. It is further submitted that co-accused Hony Suny alias Mudassir has been granted anticipatory bail by a Coordinate Bench of this Court vide order dated 04.02.2026 in NABAIL No. 10827 of 2025. The criminal antecedents of the applicant in four cases have been explained in paragraph no. 26 of the affidavit and in paragraph no. 3 of the supplementary affidavit filed today. Learned counsel for the applicant lastly contended 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, and shall abide by all the conditions that may be

imposed by the court.

5. On the other hand, learned A.G.A. has opposed the application for anticipatory bail, however, he does not dispute the factual aspect.

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

7. The chargesheet has already been submitted in this case. There is no requirement of custodial interrogation of the applicant.

8. 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.*
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> *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."*

9. Hence, considering the settled principles 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 of the merits of the case, in my view, it is a fit case for anticipatory bail to the applicant till conclusion of trial in the matter.

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

(i) In the event of arrest of the applicant- Hamza Miyan @ Haidar Ali Khan, 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 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.

11. 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 7, 2026
Radhika

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