2026:AHC:209582

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. ANTICIPATORY BAIL APPLICATION U/S 482 BNSS No. - 10564 of 2026

Khurram @ Mohd Khurram

.....Applicant(s)

Versus

State of U.P.

.....Opposite Party(s)

Counsel for Applicant(s)	:	Anurag Verma, Ashok Kumar Singh, Ram Bhawan Singh
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. 97 of 2026, under Sections 108, 127(2), 3(5) BNS, Police Station Bakewar, District Fatehpur with a prayer to grant him anticipatory bail.

3. 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 first information report was lodged after one day. Initially, the first information report was lodged under Section 103(1) BNS, however, during the course of investigation, it was found that the deceased committed suicide, therefore, the case was converted into Section 108 BNS. No plausible explanation has been offered by the first informant in respect of delay in filing the first information report. The applicant was not nominated in the first information report, which was lodged against the co-accused Tahzeeb and five others. There is no allegation or direct or indirect evidence against the applicant that the

deceased was instigated or abetted to commit suicide by the applicant. The first information report was lodged due to ulterior motive. The applicant has been falsely implicated in the present case, during the course of investigation, on the basis of statement of the informant recorded under Section 180 BNSS. It is alleged against the applicant that the applicant also informed the informant that the deceased had arrived at the house of the other co-accused. It is further submitted that no allegation in respect of abetment / suicide has been levelled against the present applicant. Infact, the deceased committed suicide outside the house of Tahzeeb due to one sided love affair. No prima facie offence is made out from perusal of the statements of the witnesses even it is accepted to be true on its face value. The criminal antecedent of one case of the applicant of the same offence has been explained in paragraph 27 of the affidavit, the same was lodged against the applicant in the year 2018, when he was a juvenile.

4. It is further submitted by learned counsel for the applicant that the arrest of the applicant would cause an irreparable hardship to the family. The deceased was under mental stress and he committed suicide under depression without any provocation or instigation by the applicant. The essential ingredients of abetment as required under law are completely missing in the present case. 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 and shall cooperate with the investigation, 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 the rival submissions of both sides and perused the record.

7. 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.

8. 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.

9. By a long line of judgments, the Hon'ble Supreme Court has reiterated that in order to make out an offence under Section

306 IPC / 108 BNS, specific abetment as contemplated by Section 107 IPC / 45 BNS on the part of the accused with an intention to bring about the suicide of the person concerned as a result of that abetment is required. It has been further held that the intention of the accused to aid or instigate or to abet the deceased to commit suicide is a must for attracting Section 306 IPC / 108 BNS **[See Madan Mohan Singh vs. State of Gujarat and Another (2010) 8 SCC 628]**. Further, the alleged harassment meted out should have left the victim with no other alternative but to put an end to his / her life and that in cases of abetment of suicide there must be proof of direct or indirect acts of incitement to commit suicide **[See Amalendu Pal alias Jhantu vs. State of West Bengal, (2010) 1 SCC 707 and M. Mohan vs. State (2011) 3 SCC 626 and Ramesh Kumar vs. State of Chhattisgarh (2001) 9 SCC 618]**.

10. These principles have been reiterated recently by Hon'ble Supreme Court in **Mahendra Awase vs. The State of Madhya Pradesh, 2025 INSC 76**.

11. The case of the applicant is squarely covered by the aforesaid judgments.

12. 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, a case for anticipatory bail is made out.

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

(i) In the event of arrest of the applicant-**Khurram @ Mohd Khurram** involved in aforesaid case 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 to the court concerned;

(ii) The applicant 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 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 or to any police officer; and

(iv) The applicant shall not leave India without the previous permission of the Court.

14. 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.

October 7, 2026
Lalit Shukla

(Vivek Kumar Singh,J.)

Digitally signed by :-
LALIT KUMAR SHUKLA
High Court of Judicature at Allahabad