HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. ANTICIPATORY BAIL APPLICATION U/S 482 BNSS No. - 10885 of 2026

Neha Sharma @ Radhakishori

.....Applicant(s)

Versus

State Of U.P. And 3 Others

.....Opposite Party(s)

Counsel for Applicant(s) : Himanshu Mishra
Counsel for Opposite Party(s) : G.A., Rajeev Trivedi, Rashi Trivedi

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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. This is the second anticipatory bail application. First anticipatory bail application was dismissed vide order dated 24.7.2026 in Criminal Misc. Anticipatory Bail Application u/s 482 BNSS No. 164 of 2026.

3. The present application has been filed on behalf of the applicant in Case Crime No. 591 of 2025, under Sections 316(2), 140(4), 115(2), 351(2), 324(4) B.N.S. and Section 3/4 of POCSO Act, Police Station Govardhan, District Mathura with a prayer to grant her anticipatory bail.

4. Learned counsel for the applicant submits that the applicant is absolutely innocent and has been falsely implicated in the present case. She has nothing to do with the alleged offence in spite of that the police are trying to arrest the applicant. It is further submitted that the applicant has cooperated in the investigation. The Investigating Officer has completed the investigation and he has submitted charge-sheet in this case. Since the investigation is complete, therefore, there is no requirement of custodial interrogation of the applicant. The applicant is an unmarried girl. 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, she 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.

5. Learned counsel for the applicant has placed reliance upon the judgment of Hon'ble Supreme Court in the case of **Musheer Alam vs. State of U.P. and another (Special Leave to Appeal (Crl.) No. 18084 of 2024)** decided on 17.1.2025.

6. On the other hand, learned A.G.A. as well as learned counsel appearing for the informant have vehemently opposed the application for anticipatory bail. It is further submitted that the charge-sheet was submitted on 29.4.2026 i.e. prior to rejection of first anticipatory bail application on 24.7.2026. No new fact has been brought on record by the applicant. It is further submitted that the Hon'ble Supreme Court in the case of **Sumitha Pradeep vs. Arun Kumar C.K. and another (Criminal Appeal No. 1834 of 2022)** decided on 21.10.2022, held that the anticipatory bail cannot be granted on the ground that charge-sheet has already been submitted and that anticipatory bail application should be decided on its merit. There is no universal rule that anticipatory bail should be granted in all those cases, where the Investigating Officer has completed the investigation. It is further submitted that the present anticipatory bail application is not maintainable in view of the judgment of Hon'ble Apex Court in the case of **Srikant Upadhyay and Others vs. State of Bihar and Another, (2024) 12 SCC 382**.

7. It is further submitted by learned A.G.A. as well as learned counsel appearing for the informant that the victim was about 13 years of age at the time of alleged incident. The victim has categorically stated in her statement that she was being sexually exploited by the applicant for the past four years. It is also alleged in her statement that finger was inserted and she was disrobed by the applicant.

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

9. The first anticipatory bail application was dismissed by this Court vide order dated 24.7.2026, which is quoted hereunder:-

> "1. Heard learned counsel for the applicant, learned counsel for the

informant 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. 591 of 2025, under Sections 140(4), 115(2), 351(2), 324(4) of B.N.S. and Section 3/4 of POCSO Act, P.S. Govardhan, District Mathura,, with a prayer to grant her anticipatory bail.

3. Learned counsel for the applicant submits that the applicant is absolutely innocent and has been falsely implicated in the present case. She has nothing to do with the alleged offence in spite of that the police are trying to arrest the applicant. The applicant is an unmarried girl. A false allegation has been levelled against her in the F.I.R. dated 18.11.2025. The victim was not sexually exploited by the applicant. The alleged incident had taken place on 11.11.2025. The delay in lodging the F.I.R. has not been properly explained by the prosecution. The applicant was falsely implicated since marriage of the victim was fixed with an elderly man. The victim did not want to marry him and the applicant rescued her, therefore, she has been implicated 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, she 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. as well as learned counsel for the informant have opposed the application for anticipatory bail. It is further submitted that the victim was about 13 years of age at the time of alleged incident; her date of birth was 15.08.2008, as per school record. The incident had taken place four years ago when the victim was about 13 years of age. The victim has categorically stated in her statements that she was subjected to sexual exploitation by the applicant for the past four years. She alleged in her statements that finger was insertated and she was disrobed by the applicant. Threat was also extended to the victim. The victim was about 13 years of age at the time of alleged incident. She was continuously subjected to sexual exploitation by the applicant.

5. I have heard learned counsel for the parties and perused the record of the case.

6. In the case of Srikant Upadhyay and Others vs. State of Bihar and Another, (2024) 12 SCC 382, the Hon'ble Supreme Court has held that the power to grant anticipatory bail is an extraordinary power. While called upon to exercise the said power, the Court has to be very cautious as the grant of interim protection or protection to the accused in serious cases may lead to miscarriage of justice. When warrant of arrest or proclamation is issued, the applicant is not entitled to invoking extraordinary power. The relevant paragraph no. 30 of Srikant Upadhyay (supra) is quoted as under:

"30. We have already held that the power to grant anticipatory bail is an extraordinary power. Though in many cases it was held that bail is said to be a rule, it cannot, by any stretch of imagination, be said that anticipatory bail is the rule. It cannot be the rule and the question of its grant should be left to the cautious and judicious discretion by the Court depending on the facts and circumstances of each case. While called upon to exercise the said power, the Court concerned has to be very cautious as the grant of interim protection or protection to the accused in serious cases may lead to miscarriage of justice and may hamper the investigation to a great extent as it may sometimes lead to tampering or distraction of the evidence. We shall not be understood to have held that the Court shall not pass an interim protection pending consideration of such application as the Section is destined to safeguard the freedom of an individual against unwarranted arrest and we say that such orders shall be passed in eminently fit cases. At any rate, when warrant of arrest or proclamation is issued, the applicant is not entitled to invoke the extraordinary power. Certainly, this will not deprive the power of the Court to grant pre-arrest bail in extreme, exceptional cases in the interest of justice. But then, person(s) continuously, defying orders and keep absconding is not entitled to such grant."

7. In the case of P. Chidambaram vs. Directorate of Enforcement, (2019) 9 SCC 24, the Hon'ble Apex Court has held that arrest is a part of procedure of the investigation to secure not only the presence of the

accused but several other purposes. The power under Section 438 of Cr.P.C./482 of B.N.S.S. has to be exercised sparingly. The privilege of the pre-arrest bail should not be granted only in exceptional cases. The relevant paragraph no. 69 of P. Chidambaram (supra) is reproduced as under:

"69. Ordinarily, arrest is a part of procedure of the investigation to secure not only the presence of the accused but several other purposes. Power under Section 438 Cr.P.C. is an extraordinary power and the same has to be exercised sparingly. The privilege of the pre-arrest bail should be granted only in exceptional cases. The judicial discretion conferred upon the court has to be properly exercised after application of mind as to the nature and gravity of the accusation; possibility of the applicant fleeing justice and other factors to decide whether it is a fit case for grant of anticipatory bail. Grant of anticipatory bail to some extent interferes in the sphere of investigation of an offence and hence, the court must be circumspect while exercising such power for grant of anticipatory bail. Anticipatory bail is not to be granted as a matter of rule and it has to be granted only when the court is convinced that exceptional circumstances exist to resort to that extraordinary remedy. "

8. It would be apposite to refer herein to a judgment of the Hon'ble Supreme Court titled as Kishor Vishwasrao Patil vs. Deepak Yashwant Patil and another, 2022 SCC OnLine SC 2528, relevant paragraph nos.14 and 15 whereof read as under:

"14.....

74. Ordinarily, arrest is a part of the process of the investigation intended to secure several purposes. There may be circumstances in which the accused may provide information leading to discovery of material facts and relevant information. Grant of anticipatory bail may hamper the investigation, Pre-arrest bail is to strike a balance between the individual's right to personal freedom and the right of the investigating agency to interrogate the accused as to the material so far collected and to collect more information which may lead to recovery of relevant information.....

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75. Observing that the arrest is a part of the investigation intended to secure several purposes, in Adri Dharan Das v. State of W.B. [Adri Dharan Das v. State of W.B., (2005) 4 SCC 303: 2005 SCC (Cri) 933], it was held as under: (SCC p. 313, para 19)

"19. Ordinarily, arrest is a part of the process of investigation intended to secure several purposes. The accused may have to be questioned in detail regarding various facets of motive, preparation, commission and aftermath of the crime and the connection of other persons, if any, in the crime. There may be circumstances in which the accused may provide information leading to discovery of material facts. It may be necessary to curtail his freedom in order to enable the investigation to proceed without hindrance and to protect witnesses and persons connected with the victim of the crime, to prevent his disappearance, to maintain law and order in the locality. For these or other reasons, arrest may become an inevitable part of the process of investigation. The legality of the proposed arrest cannot be gone into in an application under Section 438 of the Code. The role of the investigator is well defined and the jurisdictional scope of interference by the court in the process of investigation is limited. The court ordinarily will not interfere with the investigation of a crime or with the arrest of the accused in a cognizable offence. An interim order restraining arrest, if passed while dealing with an application under Section 438 of the Code will amount to interference in the investigation, which cannot, at any rate, be done under Section 438 of the Code."

76. In Siddharam Satlingappa Mhetre v. State of Maharashtra and Others, (2011) 1 SCC 694: (2011) 1 SCC (Cri) 514], the Supreme Court laid down the factors and parameters to be considered while dealing with anticipatory bail. It was held that the nature and the gravity of the accusation and the exact role of the accused must be properly comprehended before arrest is made and that the court must evaluate the available material against the accused very carefully. It was also held that the court should also consider whether the accusations have been made only with the object of injuring or humiliating the applicant by arresting him or her.

77. After referring to Siddharam Satlingappa Mhetre [Siddharam Satlingappa Mhetre v. State of Maharashtra, (2011) 1 SCC 694: (2011) 1 SCC (Crl) 514] and other judgments and observing that anticipatory bail can be granted only in exceptional circumstances, in Jai Prakash Singh v. State of Bihar [Jai Prakash Singh v. State of Bihar, (2012) 4 SCC 379: (2012) 2 SCC (Cri) 468], the Supreme Court held as under: (SCC p. 386, para 19)

"19. Parameters for grant of anticipatory bail in a serious offence are required to be satisfied and further while granting such relief, the court must record the reasons therefor. Anticipatory bail can be granted only in exceptional circumstances where the court is prima facie of the view that the applicant has falsely been enroped in the crime and would not misuse his liberty. (See D.K. Ganesh Babu v. P.T. Manokaran [D.K. Ganesh Babu v. P.T. Manokaran, (2007) 4 SCC 434 :(2007) 2 SCC (Cri) 345], State of Maharashtra v. Mohd. Sajid Husain Mohd. S. Husain [State of Maharashtra v. Mohd. Sajid Husain Mohd. S. Husain, (2008) 1 SCC 213: (2008) 1 SCC (Cri) 176] and Union of India v. Padam Narain Aggarwal [Union of India v. Padam Narain Aggarwal, (2008) 13 SCC 305: (2009) 1 SCC (Cri) 1].)"

Economic offences

78. Power under Section 438 CrPC being an extraordinary remedy, has to be exercised sparingly; more so, in cases of economic offences. Economic offences stand as a different class as they affect the economic fabric of the society. In Directorate of Enforcement v. Ashok Kumar Jain [Directorate of Enforcement v. Ashok Kumar Jain, (1998) 2 SCC 105: 1998 SCC (Cri) 510], it was held that in economic offences, the accused is not entitled to anticipatory bail."

15. In Sushila Agrawal and others v. State (NCT of Delhi) and Another reported in (2020) 5 SCC 1, Constitution Bench of this Court held that while considering an application for grant of pre-arrest 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 or likelihood of fleeing justice. The Court held:-

"92.4. 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; equally whether and if so, what kind of special conditions are to be imposed (or not imposed) are dependent on facts of the case, and subject to the discretion of the court."

9. In the case of Sumitha Pradeep vs. Arun Kumar C.K And Another (Criminal Appeal No. 1834 of 2022, decided on 21.10.2022, the Hon'ble Apex Court has held that anticipatory bail application should not be granted in those cases where the victim is a minor girl and thereafter set-aside the anticipatory bail order passed by the High Court.

10. In view of this Court, the parameters of granting regular bail and anticipatory bail are different and it is not necessary that the grounds which are sufficient to enlarge an accused on regular bail must also be sufficient to enlarge them on anticipatory bail. Further, the Constitution Bench of the Apex Court in the case of Gurbaksh Singh Sibbia and others Vs. State of Punjab, (1980) 2 SCC 565 also observed that the power to grant anticipatory bail is an extraordinary power and therefore in view of this Court being extraordinary power it cannot be used in routine manner.

11. Therefore, considering the facts and circumstances of the case discussed above, in my view, applicants are not entitled to be released on anticipatory bail.

12. Accordingly, the instant anticipatory bail application stands dismissed.

13. Interim order, if any, stands vacated.

14. Registrar (Compliance) is directed to send a copy of this order to the court concerned through fastest mode, for necessary compliance."

10. No fresh ground has been raised by the learned counsel for the applicant. The charge-sheet has already been submitted on 29.4.2026 i.e. prior to rejection of first anticipatory bail application dated 24.7.2026. A detailed order was passed by this Court after considering the merits of the

case.

11. Therefore, considering the facts and circumstances discussed above and in view of considered opinion of this Court, the applicant is not entitled to be released on anticipatory bail.

12. Accordingly, the instant anticipatory bail application stands **dismissed** .

13. Registrar (Compliance) is directed to send a copy of this order to the learned court concerned through fastest mode.

(Vivek Kumar Singh,J.)

October 27, 2026
Lalit Shukla

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