HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. ANTICIPATORY BAIL APPLICATION U/S 482 BNSS No. - 10537 of 2026

Sandeep And Another

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite Party(s)

Counsel for Applicant(s)	:	Atul Kumar Shahi, Raj Kamal Singh
Counsel for Opposite Party(s)	:	Ajay Kumar, G.A.

Court No. - 71

HON'BLE VIVEK KUMAR SINGH, J.

1. 1. Heard Learned counsel for the applicants, Shri Ajay Kumar, Learned counsel for the informant and Learned A.G.A. for the State as well as perused the record.

2. The present anticipatory bail application has been filed on behalf of the applicants in Case Crime no.220 of 2025, under Sections 190, 191(2), 109, 115(2), 126(2), 351(3), 352 B. N. S., 2023, P.S. Karhal, District Mainpuri, with a prayer to enlarge them on anticipatory bail as the applicants apprehend their arrest in the abovementioned case.

3. Learned counsel for the applicants has contended that initially the FIR was lodged for offences under Sections 191(2), 190, 115(2), 352 BNS against 8 named accused including the applicants. The applicants were bailed out by the order dated 02.06.2025 passed by the Chief Judicial Magistrate, Mainpuri. During the course of investigation, Sections 126(2) and 109 of the BNS have been added and for the added provisions the applicants applied for anticipatory bail which has been dismissed by the District and Sessions Judge, Mainpuri. Learned counsel has contended that the applicants although have a criminal history of four cases each, however they are not previous convicts. He has further submitted that the injuries sustained by the injured appeared to be suspicious as the injured Dharmendra and Naimat in their medical examination were not found to have any grievous injury or injury which may be categorized to be dangerous to life. The injured Naimat's supplementary report prepared

from the Uttar Pradesh University of Medical Sciences, Saifai, Etawah also does not show any grievous injury or injury which may be considered to be dangerous to life. This supplementary report was prepared after NCCT scan of the head was also conducted. He further contends that it is after being discharged from Saifai that the injured Naimat again got himself examined at District Hospital, Mainpuri where a fracture of the parietal bone was noted. Learned counsel has submitted that the subsequent supplementary report of CHC Karhal on the basis of the X-ray report of District Hospital, Mainpuri appears to be a fake report and may not be relied upon. He contends that no offence under Section 109 and 126(2) of the BNS is made out.

4. Learned counsel for the applicant has placed much reliance on the judgments of the Apex Court passed in case of **Bhadresh Bipinbhai Sheth vs. State of Gujarat & Another reported in 2016 (1) SCC (Cri) 240 and Manoj Suresh Jadhav & Ors. vs. The State of Maharashtra, reported in 2018 SCC OnLine SC 3428**, wherein the applicant therein was enlarged on anticipatory bail in the added sections U/S 438 Cr.P.C. after being enlarged on regular bail U/S 439 Cr.P.C. Learned counsel for the applicant has also placed reliance on the judgment of this Court passed in **Criminal Misc. Anticipatory Bail Application U/S 438 Cr.P.C. No.9742 of 2021,** wherein the accused was enlarged on anticipatory bail after being granted regular bail. 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, shall cooperate with the investigation, and shall abide by all the conditions that may be imposed by the Court.

5. Sri Ajay Kumar, Learned counsel for the informant has opposed the prayer for bail and has contended that a brutal assault was made by the named accused on the two injured. He has admitted that both the applicants are on bail under the orders of the Chief Judicial Magistrate.

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

7. Taking into account the fact that applicants claim to have been bailed out in the case and are seeking anticipatory bail in added sections as also the fact that supplementary report prepared at Saifai and at CHC Karhal are at odds with each other, it would be appropriate to grant interim anticipatory bail to the applicants.

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 applicants 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 applicants- **Sandeep and Anuruddh Kumar,** 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 court concerned;

(ii) The applicants shall co-operate during trial and shall report to the court concerned as and when required for the purpose of fair trial.

(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 him from disclosing such facts to the Court; and

(iv) The applicants 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 applicants, before the concerned court.

(Vivek Kumar Singh,J.)

October 24, 2026
Nitendra

Digitally signed by :-
NITENDRA TIWARI
High Court of Judicature at Allahabad