2026:AHC:226789

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. ANTICIPATORY BAIL APPLICATION U/S 482 BNSS No. - 10896 of 2026

Mohammad Musharraf

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite Party(s)

Counsel for Applicant(s) : Brijesh Yadav, Mahesh Prasad Yadav, Munna Yadav

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

Court No. - 71

HON'BLE VIVEK KUMAR SINGH, J.

1. Learned counsel for the applicant is permitted to delete Section 3 of Prevention of Damage to Public Property Act, during the course of the day.

2. Heard Sri Ratnendu Kumar Singh alongwith Sri Brijesh Yadav, 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. 337 of 2026, under Sections 109(1), 191(2), 191(3), 352, 351(2), 281, 324(4) of B.N.S., Police Station - Nawabganj, District Prayagraj, 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 that the police are trying to arrest the applicant. The alleged incident is said to have taken place on 08.08.2026 at 15:30 hours, whereas the F.I.R. was lodged on 09.08.2026 at 13:23 hours. The delay in lodging the F.I.R. has not been satisfactorily explained. The applicant has not been nominated in the F.I.R. Number of car belonging to the applicant has been mentioned in the F.I.R. It is

further submitted that on the relevant date, the applicant was not driving the car. This is a case of no injury, therefore, no offence under Section 109(1) of B.N.S. is made out against the applicant. It is not alleged in the F.I.R. that the applicant or any other person used any deadly weapon. Section 109(1) of B.N.S. has been wrongly invoked in order to send the applicant behind the bars. The applicant, being owner of the car, has been falsely implicated in the present case. He has no previous criminal antecedent to his credit. 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. 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. 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.

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

(i) In the event of arrest of the applicant- **Mohammad Musharraf** involved in aforesaid case shall be released on anticipatory bail till the conclusion of trial, on his/her 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 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 her/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.

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.

November 2, 2026
A.P. Pandey

(Vivek Kumar Singh,J.)

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