HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. ANTICIPATORY BAIL APPLICATION U/S 482 BNSS No. - 10784 of 2026

Sarfaraj

.....Applicant(s)

Versus

State of U.P.

.....Opposite Party(s)

Counsel for Applicant(s)	:	Ajay Kumar Mishra
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. Supplementary affidavit filed today is taken on record.

3. The present application has been filed on behalf of the applicant in Case Crime No. 14 of 2026, under Section 111(4) BNS and Section 3/4 of Prevention of Cow Slaughter Act, Police Station Mainather, District Moradabad 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 applicant is not nominated in the first information report. The name of the applicant was taken by the co-accused Zafar @ Zaffar in his confessional statement. The applicant is not the owner of the vehicle in question. There is no admissible evidence against the applicant except the confessional statement of the co-accused, which is not admissible in evidence. It is further submitted that the applicant is a labour and he has been living in Delhi since long, therefore, he could not know about the pendency of this case and that a process has been issued under Section 84 BNSS

after rejection of the anticipatory bail application of the applicant by the court trial court. The applicant is not evading the process of law and the applicant is ready to appear before the court concerned. Earlier, the applicant was implicated in two petty cases, however, he is on bail in both the cases. The criminal history of the applicant has been explained in the supplementary affidavit. Learned counsel for the applicant further submits 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 the rival submissions of both sides and perused the record.

7. 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.

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."

8. 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, and the case of the applicant is squarely covered by the aforesaid judgments, a case for anticipatory bail is made out.

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

(i) In the event of arrest/appearance of the applicant-**Sarfaraj** involved in aforesaid case shall be released on anticipatory bail till the conclusion of trial, before the competent Court 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.

10. 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 23, 2026
Lalit Shukla

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