HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. ANTICIPATORY BAIL APPLICATION U/S 482 BNSS No. - 11223 of 2026

Rakshpal And 2 Others

.....Applicant(s)

Versus

State of U.P.

.....Opposite Party(s)

Counsel for Applicant(s)	:	Gufran Ahmad Khan
Counsel for Opposite Party(s)	:	G.A.

Court No. - 71

HON'BLE VIVEK KUMAR SINGH, J.

1. Heard Sri N.I. Jafri, learned Senior Advocate assisted by Sri Gufran Ahmad Khan, learned counsel for the applicants 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. 141 of 2025, under Sections 109, 103(1), 115(2), 118(1), 118(2), 352, 351(3) of BNS, Police Station Binawar, District Budaun, with a prayer to grant them anticipatory bail.

3. Learned counsel for the applicants submits that the applicants are absolutely innocent and have been falsely implicated in the present case. They have nothing to do with the alleged offence in spite of that the police are trying to arrest the applicants. The applicants along with other co-accused were nominated in the first information report dated 09.08.2025. It is alleged in the first information report that the applicants and other co-accused participated in the alleged offence. The Investigating Officer commenced the investigation and the same was completed by him on 13.06.2026. The applicants were exonerated by the Investigating Officer and the charge-sheet was submitted against other co-accused. The learned Magistrate took cognizance of the offence and thereafter the case was committed to the court of sessions, where charges were framed upon the co-accused. They pleaded not guilty and claimed to be tried. It is further submitted that after framing of charges, the prosecution adduced evidence and statements of PW-1 Mahendra Veer

Pratap, PW-2 Dharmendra and PW-3 Abhishek @ Susheel and PW-4, Atul, were recorded during the course of trial and thereafter the application under Section 319 Cr.P.C. / 358 BNSS was moved by the prosecution to summon the applicants to face criminal trial. The said application moved under Section 319 Cr.P.C. / 358 BNSS was allowed by the learned trial court vide order dated 10.09.2026. The summoning order dated 10.09.2026 attained its finality. It is further submitted that initially the F.I.R. was lodged under Sections 115(2), 352, 351(2), 118(1) of B.N.S., however, after death of the deceased Chandrapal, the case was converted into Section 103(1) of B.N.S. The deceased died after three and half months of the incident. As per the post-mortem report, cause of death is septicemic shock due to septicemia.

4. It is further submitted that the applicants were exonerated by the Investigating Officer and, prima facie, their complicity in the alleged offence were not found after due investigation. The applicants have been summoned in the present case on the whims of the prosecution. The applicants are ready to face criminal trial. The investigation has already been completed in this matter and no complicity of the applicants in the alleged offence was found. There is no requirement of custodial interrogation of the applicants. The applicants have no criminal history to their credit. Learned counsel for the applicants further submits that the applicants undertake to cooperate during trial and shall appear as and when required by the Court concerned. It has also been stated that, in case the applicants are granted anticipatory bail, they shall not misuse the liberty of bail, shall cooperate with the trial court, 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. The Investigating Officer was bluffed by the applicants, therefore, no charge-sheet was submitted against them though they were nominated in the first information report.

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

7. The applicants were nominated in the first information report but no

charge-sheet was submitted against them. The complicity of the applicants was not found by the Investigating Officer in the alleged crime. They have been summoned by the learned trial court to face criminal trial by exercising powers under Section 319 Cr.P.C. / 358 BNSS and there is no requirement of custodial interrogation of the applicants. Considering the submissions made by learned counsel for the parties, this Court is of the view that the applicants have made out a case for grant of anticipatory bail.

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. 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 applicants is squarely covered by the aforesaid judgments, 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/appearance of the applicants- **Rakshpal, Omveer Singh, Munna Lal** involved in aforesaid case shall be released on anticipatory bail till the conclusion of trial, before the competent Court 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 27, 2026
A.P. Pandey

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