HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. ANTICIPATORY BAIL APPLICATION U/S 482 BNSS No. - 11359 of 2026

Anjum @ Anum

.....Applicant(s)

Versus

State Of U.P. And 3 Others

.....Opposite Party(s)

Counsel for Applicant(s) : Kushagra Srivastava, Saumya Srivastava

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. It is submitted by learned A.G.A. that the matter pertains to POCSO Act and notice has been served upon the victim / first informant / opposite party no. 4 of the present case. Despite service of notice, no one has appeared on behalf of the informant / victim / opposite party no. 4 to contest the present matter.

3. The present application has been filed on behalf of the applicant in Case Crime No. 307 of 2026, under Sections 376(2)(n)/376-D, 120-B, 328, 504, 506 IPC, Section 3/4 of POCSO Act and Section 67-A of I.T. Act, Police Station Hapur Nagar, District Hapur 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 is a lady and the main allegation of rape has been levelled against the co-accused Mushaid. In so far as the applicant is concerned, only it is alleged that she was instrumental in meeting of the co-accused and the victim. No other allegation has been levelled against the applicant. The allegation of making the video viral of the

victim has been levelled against the co-accused Mushaid. A total of eight persons including the applicant has been made accused in this case. It is further submitted by learned counsel for the applicant that the police after due investigation submitted charge-sheet against the co-accused Mushaid on 24.7.2026 and the applicant was exonerated by the Investigating Officer. Thereafter, order for further investigation was passed and the Investigating Officer concluded the investigation on 19.8.2026 and no charge-sheet was submitted against the present applicant. Thereafter, the Circle Officer, Hapur moved an application for further investigation on 18.9.2026, which was allowed by the learned Special Judge, POCSO Act, Hapur vide order dated 18.9.2026. In pursuance of the further investigation, the applicant is being harassed and she is under apprehension of her arrest. It is further submitted that the criminal bail application of the co-accused Mushahid has been allowed by a coordinate Bench of this Court vide order dated 17.9.2026 in Criminal Misc. Bail Application No. 30982 of 2026. He challenged the entire proceedings as well as charge-sheet arising out of Case Crime No. 307 of 2026 by way of filing an Application u/s 528 BNSS No. 44001 of 2026, wherein this Court passed an interim order and further proceeding of the present case has been stayed against the co-accused Mushaid. The applicant has no criminal antecedent to her 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, 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. 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-**Anjum @ Anum** involved in aforesaid case shall be released on anticipatory bail till the conclusion of trial, on 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 to 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 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.

(Vivek Kumar Singh,J.)

October 29, 2026
Lalit Shukla

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