**HIGH COURT OF JUDICATURE AT ALLAHABAD**

**CRIMINAL MISC. ANTICIPATORY BAIL APPLICATION U/S 482 BNSS No. - 11296 of 2026**

Daulat @ Daulat Ram Saini

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite Party(s)

| | | |
|---|---|---|
| Counsel for Applicant(s) | : | Ram Raj Pandey, Shubham Pandey |
| Counsel for Opposite Party(s) | : | Dharam Singh, G.A., Kumari Poonam Rajpoot, Prem Babu Verma |

**Court No. - 71**

**HON'BLE VIVEK KUMAR SINGH, J.**

1. Heard Shri Ram Raj Pandey, learned counsel for the applicant, Ms. Kumari Poonam Rajpoot, learned counsel for the informant and the learned A.G.A for the State and perused the record.

2. The present application has been filed on behalf of the applicant in Case Crime No. 421 of 2024, under Sections 238(A), 103(1), 61(2)A of B.N.S., P.S. Shikarpur, District Bulandshahar, with a prayer to grant him anticipatory bail.

3. The brief facts of the case are to the effect that the alleged incident is said to have taken place on 13.12.2024 at 19:30 hours. The F.I.R. was lodged on 15.12.2024 at 13:31 hours, under Sections 137(2), 103(1), 61(2) of B.N.S. by the first informant Ved Prakash, against the applicant and five other co-accused namely Balveer, Lokesh, Roshan, Manoj and Anshul. It is alleged in the F.I.R. that Mayank, the son of the informant, about 15 years of age, was taken away by the applicant and co-accused Balveer, both sons of Rampal, on 13.12.2024 at 19:30 hours. After some time at about 22:30 hours, Mayank informed his cousin Daksh Saini, on his mobile phone that co-accused Lokesh, Roshan, Manoj and Anshul had taken him towards Rajwaha and that they had intention to kill him. It is further stated in the F.I.R. that Mayank had a friendship with the sister of co-accused Lokesh s/o Balveer and due to this reason, he was killed by the accused persons.

4. After investigation, a chargesheet was filed only against co-accused

Balveer, Lokesh, Roshan, Manoj and Anshul, under Sections 103(1), 61(2)(a) and 238(a) of B.N.S. The applicant was exonerated during the course of the investigation, as no evidence was found against him.

5. 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. It is submitted that the alleged incident is said to have taken place on 13.12.2024 at 19:30 hours, whereas the F.I.R. was lodged after a delay of about two days on 15.12.2024 at 13:31 hours, under Sections 137(2), 103(1), 61(2) of B.N.S. The applicant and others were nominated in the F.I.R., wherein it is alleged that the deceased was taken from his house by the applicant and co-accused Balveer. After some time, the deceased, Mayank, made a telephone call to his cousin Daksh Saini and stated that the other co-accused Lokesh, Roshan, Manoj and Anshul, intended to kill him. It is further submitted that the deceased was never taken by the applicant, as alleged in the F.I.R. He was seen alone in the CCTV footage which is appended at page no. 106 of the application. Although witnesses stated that the deceased was taken by the applicant, this was found to be false by the investigating officer during the course of the investigation, and no chargesheet was submitted only against the applicant. The chargesheet was submitted against five other co-accused.

6. It is further submitted by the learned counsel for the applicant that the case was committed to the court of session, being a case triable by the court of session, where charges were framed against the co-accused, who pleaded not guilty and claimed trial. During the course of the trial, the statements of PW-1 Ved Prakash (informant), PW-2 Smt. Sunita, wife of the informant and PW-3 Daksh Saini (cousin of the deceased), were recorded, and they supported the prosecution case. Thereafter, the prosecution moved an application under Section 358 of the B.N.S.S., which was allowed by the trial court vide order dated 09.01.2026. This order has attained finality. The investigation is over, and there is no requirement of custodial interrogation of the applicant, therefore, he may be enlarged on anticipatory bail. The applicant has no criminal antecedents to his credit. Finally, learned counsel for the applicant contends that the applicant undertakes to cooperate during the 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.

7. On the other hand, learned A.G.A. as well as learned counsel for the informant have vehemently opposed the application for anticipatory bail. It is submitted by them that the statement of Smt. Sunita (mother of the deceased) was recorded during the course of the investigation, who stated that the deceased was taken by the applicant and the co-accused Balveer. It is further submitted that there is a last seen evidence against the applicant. During the course of the investigation, statement of one Sonu was also recorded, who stated that the deceased was in the company of the applicant and co-accused Balveer. The applicant has not been falsely implicated on account of previous enmity. The chargesheet was submitted against the co-accused Balveer and his first Crl. Misc. Bail Application No. 9605 of 2025 was rejected by this Court vide order dated 24.03.2025, however, the same was later on allowed vide order dated 24.11.2025 in Crl. Misc. Bail Application No. 16672 of 2025. There is ample evidence against the applicant to prosecute him, therefore, he was summoned by the trial court to face criminal trial vide order dated 09.01.2026. The summoning order dated 09.01.2026 was challenged by the applicant in Criminal Revision No. 685 of 2026 before this Court, which was dismissed vide order dated 02.02.2026. The applicant, being aggrieved vide order dated 02.02.2026, passed in Crl. Revision No. 685 of 2026, preferred a S.L.P. (Criminal) No. 5901 of 2026, which too has been dismissed by the Hon'ble Supreme Court vide order dated 28.09.2026. The Hon'ble Supreme Court did not find any illegality or impropriety in the order dated 02.02.2026, therefore, the applicant has been rightly summoned by the trial court and he should appear before the court concerned and apply for regular bail.

8. It is further submitted by the learned counsel for the informant that the applicant has not approached this Court with clean hands. He has not disclosed this fact that he challenged the order dated 02.02.2026, passed in Criminal Revision No. 685 of 2026, before the Hon'ble Supreme Court. He concealed this fact too that a S.L.P. (Crl.) No. 5901 of 2026, has been dismissed by the Hon'ble Supreme Court vide order dated 28.09.2026. Both the aforesaid orders have not been appended alongwith the present

application. It is next submitted that the since the material facts have been concealed by the applicant, therefore, he is not entitled to any relief, interim or final. It is further prayed that the present anticipatory bail application is liable to be dismissed.

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

10. As per the post-mortem report, the deceased was brutally killed and several stabbed and incised wounds were caused to the deceased. In the present case, a boy, about 14 years of age, has been killed and the allegation has been levelled against the applicant and other co-accused who were nominated in the F.I.R. There is a motive in the F.I.R. that the deceased had a friendship with niece of the applicant and on account of that enmity, the applicant, co-accused Balveer and other accused have allegedly hatched a criminal conspiracy. As per the F.I.R. version, the applicant and co-accused Balveer took the deceased from his house at 19:30 hours on 13.12.2024. The role of the applicant and co-accused Balveer is identical in the F.I.R. as well as in the statements of witnesses. The applicant is real brother of co-accused Balveer.

11. The statement of Ved Prakash (informant) has been recorded as PW-1 before the learned trial court wherein he attributed similar role of the applicant and co-accused Balveer in taking away the deceased from his home at 7:30 pm. Thereafter, at about 10:30 pm, the deceased made a telephonic call to his cousin and told him that the other co-accused intended to kill him.

12. The informant's wife Smt. Sunita, was also examined as PW-2, wherein she alleged that her son was taken by the applicant and co-accused Bablu.

13. The PW-3, Daksh Saini, deposed that on 13.12.2024, he received a call from mobile phone of the deceased whose voice appeared to be under threat, after which the call got disconnected. The second call was also made by the deceased at 10:30 pm and he was requested to come immediately. The deceased stated that he had been surrounded by co-accused Lokesh, Anshul, Manoj and Roshan, who intended to kill him.

14. The contents of the F.I.R. specifically assigned a role to the applicant. PW-1 Ved Prakash, PW-2 Sunita, parents of the deceased, have given detailed examination-in-chief and were also subjected to cross-examination. They supported the prosecution case as mentioned in the F.I.R. and specified the role of the applicant.

15. One witness Sonu Saini, who was examined during course of investigation, also stated that the deceased was in the company of the applicant and co-accused Balveer, on 13.12.2024 at 7:30 pm, however, this witness has not been examined in the trial court.

16. The applicant has been summoned by the learned trial court vide order dated 09.01.2026. Being aggrieved vide order dated 09.01.2026, the applicant filed a Criminal Revision No. 685 of 2026, which was dismissed by a co-ordinate Bench of this Court vide a detailed order dated 02.02.2026. The order dated 02.02.2026, is reproduced hereunder:

> *"1. Heard learned counsel for the revisionist, learned counsel for the opposite party no. 2, and learned A.G.A. for the State.*
>
> *2. The genesis of the case is that the occurrence of the said incident, as per the F.I.R., took place on 13.12.2024 at 19:30 hours. The F.I.R. was lodged on 15.12.2024 at 13:31 hours. The F.I.R. was registered under Sections 137(2), 103(1), and 61(2) of the B.N.S.S., 2023. The F.I.R. was lodged by opposite party no. 2/complainant, Ved Prakash. The named accused persons are as follows: 1. Balveer S/o Ramphal, 2. Daulat S/o Ramphal, 3. Lokesh S/o Balveer Saini, 4. Roshan S/o Balveer Saini, 5. Manoj S/o Ramesh and 6. Anshul S/o Raj Kumar. The complainant has stated in the F.I.R. that Mayank, son of the complainant, aged about 15 years, was called by Balveer and Daulat, both sons of Ramphal, residents of Kheda (Muftiwada), Kasba and Police Station Shikarpur, District Bulandshahar, from his home on 13.12.2024 at about 19:30 hours. They were residents of the same mohalla and stated that they were taking his son to purchase vegetables from Khurja Mall. Since Mayank (deceased) used to accompany them earlier for purchase and sale of vegetables, he went along with them. Thereafter, at about 22:30 hours, Mayank informed his cousin Daksh on his mobile phone that Lokesh, his brother Roshan, Manoj, and Anshul had taken him towards Bamba Rajwaha and*

*that they had the intention to kill him. It was alleged that these persons murdered Mayank. It was further stated that Mayank had a friendship with Kumkum, who is the sister of Lokesh, and due to this reason he was murdered.*

*3. After investigation, the charge-sheet was filed only against Balveer, Lokesh, Roshan, Manoj, and Anshul under Sections 103(1), 61(2)(a), and 238(a) of the B.N.S.S. The revisionist, Daulat s/o Ramphal, was exonerated during investigation as no evidence was found against him.*

*4. Learned counsel for the revisionist primarily relied upon paragraph 10 of his affidavit, which is reproduced as follows:*

> *"10. That the there is no evidence at all available in the case diary or even in the statement of the witnesses recorded in court, that the revisionist and co accused Balveer has taken deceased Mayank by pretend of purchased of vegetables and has handed over him to accused persons Lokesh, his brother Roshan, Manoj and Anshul to kill him. There is total missing of any link in between these two allegations with each other. As such even if the allegation of taking the deceased Mayank by the revisionist and co accused Balveer on 13.12.2024 at 19.30 hours may be accepted to be correct on its face value even than in the absence of any evidence that the deceased remains with both of them till 22.30 hours or both of them has handed over the deceased to the rest of the accused persons, the most important link of chain of evidence is totally missing as such there is not possibility of the conviction of the revisionist in the present case in view of the five golden principles laid down by the Hon'ble supreme court in the case of circumstantial evidence in the matter of Sharad Birdhi Chand Sharda Versus State of Maharashtra, (1984) 4 SCC 116."*

*5. Learned counsel for the revisionist vehemently submitted that there is no whisper of any evidence after the first allegation in the F.I.R. at 19:30 hours. The second part begins at 22:30 hours, and there is no allegation against the revisionist regarding any role in the offence. There is a gap of*

*three hours between the two events, and hence there is no close proximity. Learned counsel further submitted that P.W.-1 Ved Prakash, the complainant, has given evidence based entirely on hearsay, as whatever he stated was informed to him by his wife, P.W.-2 Sunita. He further relied upon the statement of P.W.-2, wherein she deposed that she had concealed her face from Balveer and Daulat. It was further submitted that P.W.-3 Daksh did not name the revisionist in his evidence. P.W.-3 is the person on whose mobile phone the deceased made the last call and named Lokesh, Roshan, Manoj, and Anshul, but not the revisionist. Learned counsel also submitted that P.W.-2 named Balveer but not Daulat. Learned counsel further submitted that, as per the law laid down by the Hon'ble Supreme Court in* ***Hardeep Singh v. State of Punjab and Others, AIR 2014 SC 1400****, for summoning a person under Section 358 B.N.S.S., there must be evidence stronger than a mere prima facie case.*

*6. Learned counsel for the revisionist has further submitted that no hypothesis is ever occurred against the revisionist in the said offence which is the sole of the judgment passed by Hon'ble Supreme Court in* ***Sharad Birdhi Chand Sharda Versus State of Maharashtra, (1984) 4 SCC 116.*** *He relied upon the paras 152 and 153 of the aforesaid judgment which is as follows:*

> *"**152.** A close analysis of this decision would show that the following conditions must be fulfilled before a case against an accused can be said to be fully established:*
>
> *(1) the circumstances from which the conclusion of guilt is to be drawn should be fully established.*
>
> *It may be noted here that this Court indicated that the circumstances concerned 'must or should' and not 'may be' established. There is not only a grammatical but a legal distinction between 'may be proved' and 'must be or should be proved' as was held by this Court in Shivaji Sahabrao Bobade and another Versus State of Maharashtra, (1973) 2 SCC 793 where the following observations were made:*
>
> *"Certainly, it is a primary principle that the accused must be*

*and not merely may be guilty before a court can convict and the mental distance between 'may be' and 'must be' is long and divides vague conjectures from sure conclusions."*

*(2) The facts so established should be consistent only with the hypothesis of the guilt of the accused, that is to say. they should not be explainable on any other hypothesis except that the accused is guilty,*

*(3) the circumstances should be of a conclusive nature and tendency.*

*(4) they should exclude every possible hypothesis except the one to be proved, and*

*(5) there must be a chain of evidence so complete as not to leave any reasonable ground for the conclusion consistent with the innocence of the accused and must show that in all human probability the act must have been done by the accused.*

***153**. These five golden principles, if we may so so, constitute the panchsheel of the proof of a case based on circumstantial evidence."*

*7. Learned counsel for the revisionist has vehemently relied on the aforesaid law. He has further submitted that it is a case of circumstantial evidence. Hence, it does not cover the five principles laid down by the Hon'ble Supreme Court. Hence, the revisionist has been wrongly summoned under section 358 B.N.S.S.*

*8. It is pertinent to mention that the law laid down in **Sharad Birdhichand Sharda (supra)** was in the context of a criminal appeal after completion of trial. Those principles are applicable at the stage of final appreciation of evidence, either at the trial stage or at the appellate stage, and not at the stage of summoning under Section 358 B.N.S.S.*

*9. In the present criminal revision, the issue pertains to summoning of the revisionist under Section 358 B.N.S.S., which is to be considered in light*

*of the Constitution Bench judgment in **Hardeep Singh (supra)**. Accordingly, the evidence of P.W.-1 Ved Prakash, P.W.-2 Sunita, and P.W.-3 Daksh is to be evaluated as per the parameters laid down in **Hardeep Singh**.*

*10. Learned counsel for the revisionist has further relied on the paras 29, 30, 31 and 32 of his memo of criminal revision which is reproduced herein above:*

> *"29. That the learned trial court has complete ignore the fact that neither the first informant nor the injured witnesses has ever prayed for the trial court to summon the applicant as an accused to face the trial along with the other accused persons. Even in the new code i.e. B.N.S.S. there is no change in the language of the earlier provisions of section 358 BNSS (319 Cr.P.C.) has been made. The same has been adopted with the same language. For the ready reference the provision of section 358 B.N.S.S. are being quoted as under :-*
>
> *358. Power to proceed against other persons appearing to be guilty of offence-*
>
> *(1) Where, in the course of any inquiry into, or trial of, an offence, it appears from the evidence that any person not being the accused has committed any offence for which such person could be tried together with the accused, the Court may proceed against such person for the offence which he appears to have committed.*
>
> *(2) Where such person is not attending the Court, he may arrested or summoned, as the circumstances of the case may require, for the purpose aforesaid*
>
> *(3) Any person attending the Court although not under arrest or upon a summons, may be detained by such Court for the purpose of the inquiry into, or trial of, the offence which he appears to have committed.*

*(4) Where the Court proceeds against any persons under sub-section (1) then-*

*(a) The proceeding in respect of such persons shall be commenced afresh, and the witnesses re-heard;*

*(b) Subject to the provisions of clause (a), the case may proceed as if such person had been an accused person when the Court took cognizance of the offence upon which the inquiry or trial was commenced.*

*30. That it would be relevant to mention here that the mandatory requirement of the law is this that the accused so summoned under section358 B.N.S.S.(319) Cr.P.C.) by the trial court during the course of trial, he should be tried together with the accused persons. The very specific language "**being the accused has committed any offence for which such person could be tried together with the accused** ," has been used in the principle section by the legislature, but in the present case, since neither the trial remains nor there is any co-accused exist to face the trial with the revisionist hence the impugned order is liable to be set aside.*

*31. That as per the law laid down by the Hon'ble Supreme Court in the matter of **Hardeep Singh Versus State of Punjab and Others (2014)3 SCC 92 and Labhuji Amratji Thakor and others versus State of Gujarat and another AIR 2019 Supreme court Page 734** that the strong evidence is needed to summon a person as accused by the court in exercise of the power under section358 B.N.S.S.(319 Cr.P.C.) than the mare probability to prima facie case to shown the involvement of a accused and the power under section358 B.N.S.S.(319 Cr.P.C.) should only be exercised only when strong and cogent evidence occurs against the accused.*

*32. That in the matter of **Ramesh Chand Srivastva versus State of Utter Pradesh (Criminal Appeal no. 990 of 2021) (arising out of SLP (Criminal) No. 6381 of 2020** decided by*

> *Hon'lbe Supreme court on 13.09.2021, it has again been held by the Hon'ble Supreme court that the power under section 358 B.N.S.S.(319 Cr.P.C.) cannot be exercised in a casual and cavalier manner, The test to be applied as laid down is one which is more than prima facie case which is applied at the time of framing of charges."*

*11. Learned counsel for the opposite party no. 2 has submitted that the revisionist is named in the F.I.R. and the motive is present. There is last-seen evidence against him, as stated by the complainant as well as in the statements of P.W.-1 and P.W.-2, who are respectively the father and mother of the deceased. He has further submitted that during the investigation, Sonu has recorded his statement under Section 161 Cr.P.C., wherein he stated that he had seen Balveer and Daulat. He has further submitted that P.W.-2 Sunita, the mother of the deceased, has taken the names of all the accused persons, including the revisionist. The existence of enmity is already admitted, and Kumkum is the daughter of Balveer. He further submitted that the ingredients required for summoning an accused under Section 358 B.N.S.S. (corresponding to Section 319 Cr.P.C.), as laid down by the Constitution Bench of the Hon'ble Supreme Court in Hardeep Singh (supra), are fully satisfied.*

*12. Section 358 B.N.S.S. is reproduced hereinbelow:*

> *"**Section 358**. Power to proceed against other persons appearing to be guilty of offence. (1) Where, in the course of any inquiry into, or trial of, an offence, it appears from the evidence that any person not being the accused has committed any offence for which such person could be tried together with the accused, the Court may proceed against such person for the offence which he appears to have committed."*

*13. It is held by Hon'ble Supreme Court in **Asim Akhtar Versus The State of West Bengal and another, 2024 INSC 794** that complicity of any person sought to be arrayed as an accused can be decided with or without conducting cross-examination of the complainant and other prosecution witnesses and there is no mandate to decide the application under section*

*319 Cr.P.C. before cross examination of other witnesses. It is held by Hon'ble Supreme court in* ***Omi Versus State of M.P. (2025) 2 SCC 621****, that trial court can add an individual as accused only on the basis of the evidence adduced before it and not on the basis of the materials available in the charge sheet or the case diary because such materials contained in the charge sheet or the case diary do not constitute evidence. It is held by the Hon'ble Supreme Court in* ***Shiv Baran Versus State of U.P., 2025 SCC OnLine SC 1457*** *that trial court can exercise power to summon an additional accused under section 319 Cr.P.C. only on the basis of the evidence adduced before it and not any other material collected during investigation. It is held by the law laid down by the Hon'ble Supreme Court in* ***Hardeep Singh (supra)*** *that the word 'evidence' is limited to the evidence recorded during trial. The court has to consider whether more than prima facie case is made out or not, prima facie case is not sufficient.*

*14. In the present case, a person aged about 15 years has died by unnatural death. There is motive in the F.I.R. that Kumkum who is the sister of Lokesh and the deceased was having friendship with Kumkum hence the accused persons with the conspiracy of each other and with common intention committed the murder of Mayank. As per the F.I.R. version, Balveer and Daulat were last seen with the deceased when they called him from his house at about 19:30 hours on 13.12.2024. The role of Balveer and Daulat has been assigned identically in the F.I.R. Balveer and Daulat are brothers and both are sons of Ramphal, whereas Kumkum is the daughter of Balveer.*

*15. The statement of Ved Prakash has been recorded as P.W.-1 before the learned trial court. He supported the prosecution version in his examination-in-chief and reiterated the similar role of Balveer and Daulat in calling the deceased from his house. Thereafter, at about 10:30 p.m., the deceased Mayank called his cousin Daksh on his mobile phone and informed him that Lokesh, his brother Roshan, Manoj, and Anshul had taken him near Bombay Rajwaha and that they intended to kill him.*

*16. The submission of learned counsel for the revisionist that there is a gap of three hours and, therefore, the incident cannot be considered to be*

*in close proximity for the purpose of last-seen evidence in a case based on circumstantial evidence, cannot be accepted at this stage. P.W.-1, the father of the deceased, has specifically assigned roles to Lokesh, Roshan, Manoj, Anshul, Balveer, and Daulat in the murder of his son, stating that the motive was the deceased's friendship with the daughter of Balveer.*

*17. Learned counsel for the revisionist has submitted that P.W.-1, in his cross-examination, deposed that he named Daulat and Balveer on the basis of information given to him by his wife and, therefore, P.W.-1 does not have first-hand knowledge and his evidence is hearsay. However, such appreciation of evidence can only be undertaken after the completion of the entire evidence and at the stage of final decision, in accordance with the principles laid down in* ***Sharad Birdhichand Sharda (supra)****. P.W.-1 also stated that he had disclosed at the time of preparation of the inquest that his son Mayank was called from his house by Daulat and Balveer.*

*18. Learned counsel for the revisionist has further submitted that P.W.-2, the mother of the deceased, stated that she had concealed her face behind a veil from Balveer and Daulat and, therefore, it cannot be conclusively accepted that she had seen the revisionist. P.W.-2 Sunita, in her deposition, stated that on the evening of 13.12.2024 at about 7:30 p.m., Balveer and Daulat came to her house, held a conversation with her son Mayank, and thereafter took him to Khurja for the purchase of vegetables, from where he did not return. She further deposed in her statement that in the night the phone call was received by my nephew She further deposed that during the night, a phone call was received by her nephew Daksh from Mayank, wherein he told Daksh that Balveer, Daulat, Roshan, Manoj, Lokesh, and Anshul were beating him and requested that he come at the earliest. Thereafter, Mayank shared his location with Daksh. In her cross-examination, she further stated that when her husband arrived at about 8:00 p.m., she informed him that Balveer and Daulat had come to their house and taken Mayank to Khurja for the purchase of vegetables. She further reiterated that Balveer and Daulat had called Mayank.*

*19. Daksh, who was examined as P.W.-3, deposed that on 13.12.2024 at*

*about 10:26 p.m., he received a call from the mobile phone of Mayank, bearing mobile number 6397472745. Mayank told him, "Daksh, come at the earliest; I am with Lokesh Bhaiya," and his voice appeared to be under threat, after which the call got disconnected. A second call was received at about 10:30 p.m., during which Mayank informed him that he was sending his location and requested him to come immediately, stating that he was surrounded by Lokesh, Anshul, Manoj, and Roshan, who intended to kill him.*

*20. Learned counsel for the revisionist has submitted that P.W.-3 did not take the name of the revisionist in his deposition and that the revisionist, Daulat, has been summoned under Section 358 B.N.S.S. solely on the basis of the evidence of P.W.-1, P.W.-2, and P.W.-3. Learned counsel further submitted that P.W.-1's evidence is hearsay, P.W.-2 had her face covered with a veil when Balveer and Daulat came, and P.W.-3 did not name the revisionist in his statement. However, the contents of the F.I.R. specifically assign a role to the revisionist. P.W.-1 Ved Prakash and P.W.-2 Sunita, the father and mother of the deceased respectively, have given detailed examination-in-chief and were also subjected to detailed cross-examination, and both have supported and specified the role of Daulat in the incident. The statement of P.W.-3 Daksh, the cousin of the deceased, also supports the prosecution version.*

*21. The submission made by learned counsel for the revisionist that the case is based on circumstantial evidence and that the evidence of P.W.-1, P.W.-2, and P.W.-3 does not satisfy the five golden principles laid down by the Hon'ble Supreme Court in* ***Sharad Birdhichand Sharda (supra)*** *cannot be accepted at this stage. The principles laid down in the said judgment apply to cases of regular trial and criminal appeal, where the entire prosecution and defence evidence has been completed and is to be finally appreciated. The prosecution is required to prove its case beyond reasonable doubt at that stage.*

*22. In the present case, where the revisionist/accused Daulat has been summoned under Section 358 B.N.S.S., the five golden principles laid down in* ***Sharad Birdhichand Sharda (supra)*** *are not applicable in their entirety. At this stage, the matter is governed by the principles laid down*

*by the Constitution Bench of the Hon'ble Supreme Court in Hardeep Singh (supra), and a final judgment cannot be rendered.*

*23. The learned trial court has duly considered the evidence recorded during trial, as mandated in* ***Hardeep Singh*** *(supra). The evidence of P.W.-1, P.W.-2, and P.W.-3, who were also subjected to detailed cross-examination, constitutes evidence stronger than a mere prima facie case and, if left uncontroverted, may lead to conviction. The final interpretation, analysis, and appreciation of the evidence for the purpose of conviction or acquittal shall be undertaken by the learned trial court at the appropriate stage, in a holistic manner. At this stage, the evidence available before the learned trial court satisfies the requirements laid down in* ***Hardeep Singh (supra)***.

*24. There is neither any illegality or irregularity in the impugned order.*

*25. The criminal revision is liable to be dismissed and it is dismissed accordingly.*

17. The applicant did not appear before the learned trial court in pursuance of his summoning, rather he challenged the aforesaid order dated 02.02.2026 before the Hon'ble Apex Court by way of filing a S.L.P. (Crl.) No. 5901 of 2026 which too was dismissed by the Hon'ble Apex Court vide order dated 28.09.2026. **The applicant concealed the material facts and the order dated 02.02.2026 passed by this Court and order dated 28.09.2026 passed by the Hon'ble Apex Court have not been appended alongwith the present application. The aforesaid orders have been produced by the learned counsel for the informant.**

18. The Hon'ble Supreme Court in the case of **Dalip Singh vs. State of U.P. and Others, (2010) 2 SCC 114**, held that a litigant who attemps to pollute the stream of justice or who touches the pure fountain of justice with tainted hands, is not entitled to any relief. No litigant can play hide and seek with the Courts or adopt pick and choose. One should come with candid facts and clean hands. Suppression or concealment of material facts is forbidden to a litigant or even as a technique of advocacy. In such cases, the Court should not grant relief to those persons who have not approached the Court with clena hands and full material facts of the case.

19. The Hon'ble Supreme Court in the case of **Prestige Lights Limited vs. State Bank of India, (2007) 8 SCC 449**, held that if the applicant does not disclose full facts or suppresses relevant materials or is otherwise guilty of misleading the Court, the Court may dismiss the action wihtout adjudicating the matter. The rule has been evolved in larger public interest to deter unscrupulous litigants from abusing the process of Court by decieving it. The very basis of the Court jurisdiction rests in disclosure of true, complete and correct facts. If the material facts are not candidly stated or are suppressed or are distorted, the very functioning of the Courts would become impossible.

20. The applicant is evading the process of the Court and he is not appearing before the learned trial court for the past nine months. The applicant is concealing himself from the clutches of law for the past nine months. The Hon'ble Apex Court did not find any illegality in the order dated 02.02.2026 passed by this Court. The applicant instead of surrendering before the court concerned, moved an anticipatory bail application which was dismissed by the learned court concerned vide order dated 07.10.2026.

21. Furthermore, in the case of **Srikant Upadhyay and Others vs. State of Bihar and Another, (2024) 12 SCC 382**, the Hon'ble Supreme Court has held that the power to grant anticipatory bail is an extraordinary power. While called upon to exercise the said power, the Court has to be very cautious as the grant of interim protection or protection to the accused in serious cases may lead to miscarriage of justice. When warrant of arrest or proclamation is issued, the applicant is not entitled to invoking extraordinary power. The relevant paragraph no. 30 of **Srikant Upadhyay (supra)** is quoted as under:

> *"30. We have already held that the power to grant anticipatory bail is an extraordinary power. Though in many cases it was held that bail is said to be a rule, it cannot, by any stretch of imagination, be said that anticipatory bail is the rule. It cannot be the rule and the question of its grant should be left to the cautious and judicious discretion by the Court depending on the facts and circumstances of each case. While called upon to exercise the said power, the Court concerned has to be very cautious*

*as the grant of interim protection or protection to the accused in serious cases may lead to miscarriage of justice and may hamper the investigation to a great extent as it may sometimes lead to tampering or distraction of the evidence. We shall not be understood to have held that the Court shall not pass an interim protection pending consideration of such application as the Section is destined to safeguard the freedom of an individual against unwarranted arrest and we say that such orders shall be passed in eminently fit cases. At any rate, when warrant of arrest or proclamation is issued, the applicant is not entitled to invoke the extraordinary power. Certainly, this will not deprive the power of the Court to grant pre-arrest bail in extreme, exceptional cases in the interest of justice. But then, person(s) continuously, defying orders and keep absconding is not entitled to such grant."*

22. In the case of **P. Chidambaram vs. Directorate of Enforcement, (2019) 9 SCC 24**, the Hon'ble Apex Court has held that arrest is a part of procedure of the investigation to secure not only the presence of the accused but several other purposes. The power under Section 438 of Cr.P.C./482 of B.N.S.S. has to be exercised sparingly. The privilege of the pre-arrest bail should be granted only in exceptional cases. The relevant paragraph no. 69 of **P. Chidambaram (supra)** is reproduced as under:

*"69. Ordinarily, arrest is a part of procedure of the investigation to secure not only the presence of the accused but several other purposes. Power under Section 438 Cr.P.C. is an extraordinary power and the same has to be exercised sparingly. The privilege of the pre-arrest bail should be granted only in exceptional cases. The judicial discretion conferred upon the court has to be properly exercised after application of mind as to the nature and gravity of the accusation; possibility of the applicant fleeing justice and other factors to decide whether it is a fit case for grant of anticipatory bail. Grant of anticipatory bail to some extent interferes in the sphere of investigation of an offence and hence, the court must be circumspect while exercising such power for grant of anticipatory bail. Anticipatory bail is not to be granted as a matter of rule and it has to be granted only when the court is convinced that exceptional circumstances exist to resort to that extraordinary remedy. "*

23. It would be apposite to refer herein to a judgment of the Hon'ble Supreme Court titled as **Kishor Vishwasrao Patil vs. Deepak Yashwant Patil and another, 2022 SCC OnLine SC 2528**, relevant paragraph nos.14 and 15 whereof read as under:

> *"14.....*
>
> > *74. Ordinarily, arrest is a part of the process of the investigation intended to secure several purposes. There may be circumstances in which the accused may provide information leading to discovery of material facts and relevant information. Grant of anticipatory bail may hamper the investigation, Pre-arrest bail is to strike a balance between the individual's right to personal freedom and the right of the investigating agency to interrogate the accused as to the material so far collected and to collect more information which may lead to recovery of relevant information.....*
> >
> > 6.....
> >
> > *75. Observing that the arrest is a part of the investigation intended to secure several purposes, in **Adri Dharan Das v. State of W.B. [Adri Dharan Das v. State of W.B., (2005) 4 SCC 303: 2005 SCC (Cri) 933]**, it was held as under: (SCC p. 313, para 19)*
> >
> > > *"19. Ordinarily, arrest is a part of the process of investigation intended to secure several purposes. The accused may have to be questioned in detail regarding various facets of motive, preparation, commission and aftermath of the crime and the connection of other persons, if any, in the crime. There may be circumstances in which the accused may provide information leading to discovery of material facts. It may be necessary to curtail his freedom in order to enable the investigation to proceed without*

> *hindrance and to protect witnesses and persons connected with the victim of the crime, to prevent his disappearance, to maintain law and order in the locality. For these or other reasons, arrest may become an inevitable part of the process of investigation. The legality of the proposed arrest cannot be gone into in an application under Section 438 of the Code. The role of the investigator is well defined and the jurisdictional scope of interference by the court in the process of investigation is limited. The court ordinarily will not interfere with the investigation of a crime or with the arrest of the accused in a cognizable offence. An interim order restraining arrest, if passed while dealing with an application under Section 438 of the Code will amount to interference in the investigation, which cannot, at any rate, be done under Section 438 of the Code."*

*76. In* ***Siddharam Satlingappa Mhetre v. State of Maharashtra and Others, (2011) 1 SCC 694: (2011) 1 SCC (Cri) 514]****, the Supreme Court laid down the factors and parameters to be considered while dealing with anticipatory bail. It was held that the nature and the gravity of the accusation and the exact role of the accused must be properly comprehended before arrest is made and that the court must evaluate the available material against the accused very carefully. It was also held that the court should also consider whether the accusations have been made only with the object of injuring or humiliating the applicant by arresting him or her.*

*77. After referring to* ***Siddharam Satlingappa Mhetre [Siddharam Satlingappa Mhetre v. State of Maharashtra, (2011) 1 SCC 694: (2011) 1 SCC (Crl) 514]*** *and other judgments and observing that anticipatory bail can be*

*granted only in exceptional circumstances, in* ***Jai Prakash Singh v. State of Bihar [Jai Prakash Singh v. State of Bihar, (2012) 4 SCC 379: (2012) 2 SCC (Cri) 468]****, the Supreme Court held as under: (SCC p. 386, para 19)*

> *"19. Parameters for grant of anticipatory bail in a serious offence are required to be satisfied and further while granting such relief, the court must record the reasons therefor. Anticipatory bail can be granted only in exceptional circumstances where the court is prima facie of the view that the applicant has falsely been enroped in the crime and would not misuse his liberty.* ***(See D.K. Ganesh Babu v. P.T. Manokaran [D.K. Ganesh Babu v. P.T. Manokaran, (2007) 4 SCC 434 :(2007) 2 SCC (Cri) 345], State of Maharashtra v. Mohd. Sajid Husain Mohd. S. Husain [State of Maharashtra v. Mohd. Sajid Husain Mohd. S. Husain, (2008) 1 SCC 213: (2008) 1 SCC (Cri) 176] and Union of India v. Padam Narain Aggarwal [Union of India v. Padam Narain Aggarwal, (2008) 13 SCC 305: (2009) 1 SCC (Cri) 1].)****"*
>
> *Economic offences*
>
> *78. Power under Section 438 CrPC being an extraordinary remedy, has to be exercised sparingly; more so, in cases of economic offences. Economic offences stand as a different class as they affect the economic fabric of the society. In* ***Directorate of Enforcement v. Ashok Kumar Jain [Directorate of Enforcement v. Ashok Kumar Jain, (1998) 2 SCC 105: 1998 SCC (Cri) 510]****, it was held that in economic offences, the accused is not entitled to anticipatory bail."*

*15. In* ***Sushila Agrawal and others v. State (NCT of Delhi) and Another reported in (2020) 5 SCC 1****, Constitution Bench of this Court held that*

*while considering an application for grant of pre-arrest 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 or likelihood of fleeing justice. The Court held:-*

> *"92.4. 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; equally whether and if so, what kind of special conditions are to be imposed (or not imposed) are dependent on facts of the case, and subject to the discretion of the court."*

24. In view of this Court, the parameters of granting regular bail and anticipatory bail are different and it is not necessary that the grounds which are sufficient to enlarge an accused on regular bail must also be sufficient to enlarge him on anticipatory bail. Further, the Constitution Bench of the Apex Court in the case of **Gurbaksh Singh Sibbia and others Vs. State of Punjab, (1980) 2 SCC 565** also observed that the power to grant anticipatory bail is an extraordinary power and therefore in view of this Court being extraordinary power it cannot be used in routine manner.

25. Therefore, considering the facts and circumstances of the case discussed above, in my view, applicant is not entitled to be released on anticipatory bail. Accordingly, the instant anticipatory bail application stands **dismissed**.

26. Interim order, if any, stands vacated.

27. Registrar (Compliance) is directed to send a copy of this order to the court concerned who shall forward a copy of this order to the investigating officer concerned, for necessary compliance of this order.

**(Vivek Kumar Singh,J.)**

**October 28, 2026**
A.P. Pandey

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