



2026:AHC:179887

HIGH COURT OF JUDICATURE AT ALLAHABAD

**CRIMINAL MISC. ANTICIPATORY BAIL APPLICATION U/S
482 BNSS No. - 8163 of 2026**

Yogesh Chahar

.....Applicant(s)

Versus

State of U.P.

.....Opposite
Party(s)

Counsel for Applicant(s)	:	Saksham Srivastava, Sr. Advocate, Yasharth Srivastava
Counsel for Opposite Party(s)	:	G.A.

Court No. - 71

HON'BLE RAJIV LOCHAN SHUKLA, J.

1. Learned counsel for the applicant; and learned A.G.A. for the State are present.

2. The present anticipatory bail application has been filed on behalf of the applicant in Case Crime No.354 of 2025, under Sections 8, 20, 29 of N.D.P.S. Act, Police Station - Kiravali, District Agra, with a prayer to enlarge him on anticipatory bail as the applicant apprehends his arrest in the aforesaid case.

3. The learned counsel for the applicant states that the applicant has been falsely implicated in the present case solely on the basis of information received by the police from a police informer. It is contended that the alleged recovery of 193 kilograms of contraband (ganja) was made from an open place pursuant to the information furnished by the said informer. The First Information Report (FIR) names the applicant, along with co-accused Kishan Singh @ Anna and Jakariya @ Jaka, as the persons allegedly responsible for trafficking the said narcotics substance. The applicant seeks anticipatory bail on the following grounds :-

i. The applicant has no criminal antecedents.

ii. The applicant had earlier filed a writ petition before this Court, being Criminal Misc. Writ Petition No. 5361 of 2026, seeking quashing of the First Information Report lodged against him. The said writ petition was dismissed by this Court. In a similarly worded order, this Court also declined to grant any relief to the co-accused, Kishan Singh @ Anna, and dismissed his Criminal Misc. Writ Petition No. 5350 of 2026 by order dated 23.03.2026. Thereafter, in the case of the co-accused Jakariya @

Jaka, this Court, in Criminal Misc. Writ Petition No. 2752 of 2026, while taking note of the dismissal of the writ petition filed by the applicant, granted interim relief and stayed the submission of the police report under Section 193 of the BNSS during the pendency of the writ petition.

iii. Once the submission of the police report itself has been stayed, the applicant, whose case stands on the same footing as that of the co-accused Jakariya @ Jaka, is also entitled to similar protection from arrest and may be enlarged on anticipatory bail during the pendency of the investigation and until the submission of the police report.

4. Learned A.G.A. has opposed the prayer for grant of anticipatory bail and submitted that a huge quantity of contraband (ganja) was recovered pursuant to the information received by the police. He further contends that as the matter involves commercial quantity of ganja, hence no indulgence may be granted to the applicant. The learned A.G.A., however, has not been able to point out any criminal antecedents of the applicant.

5. I have considered the submissions made by the learned counsel for the parties.

6. While entertaining Criminal Misc. Writ Petition No.2752 of 2026, this Court was pleased to pass the following order :

"1. Heard Mr. A.P. Mishra, Advocate, holding brief of Mr. Rohit Nandan Shukla, the learned counsel for petitioner and the learned A.G.A. for State respondents 1, 2 & 3.

2. Perused the record.

3. At the very outset, the learned counsel for petitioner fairly submits that due to inadvertence, first informant S.I. Gaurav Sharma could not be impleaded as a party respondent in present writ petition. According to the learned counsel for petitioner, the first informant is a necessary and proper party in a writ petition challenging an FIR and in the absence of first informant as a party respondent, the present writ petition shall be bad for non-joinder of necessary and proper party. He, therefore, contends that in view of above, he be permitted to amend the cause title of present writ petition as well as the stay application by impleading the first informant as a party respondent/respondent-5.

4. Prayer made by the learned counsel for petitioner is bona-

fide. Same is not opposed by the learned A.G.A.

5. Accordingly, it is allowed.

6. Let necessary amendment in the cause title of the writ petition as well as the stay application be carried out by the learned counsel for petitioner during course of the day.

7. Petitioner-Jakariya @ Jaka has approached this Court by means of present criminal misc. writ petition challenging the impugned FIR dated 20.12.2025 lodged by first informant-respondent-5, SI Gaurav Sharma and registered as Case Crime No. 0354 of 2025, under Sections 8/20/29 NDPS Act, Police Station-Kirawali, District-Agra.

8. Learned counsel for petitioner, in support of present writ petition, submits that in view of the facts and circumstances as have now crystallized on record, the criminal prosecution of petitioner pursuant to the impugned FIR is not only malicious but also an abuse of the process of Court. As such, the impugned FIR is itself liable to be quashed by this Court.

9. According to the learned counsel for petitioner, though petitioner is a named accused in the FIR, however, no recovery was made from the person of petitioner or on the pointing of petitioner. Furthermore, petitioner was not arrested on the spot. In fact, no arrest was made by the police on the spot, on the basis of which, the name of accused could have come to surface and therefore, could be named in the FIR.

10. Learned counsel for petitioner has then taken the Court to the body of FIR, certified copy of which is on record at page-21 of the paper book and on basis thereof, he submits that the entire prosecution story as unfolded in the FIR is based upon the information given by police informer. He submits that the information given by the police informer does not fall in the realm of credible and reliable evidence inasmuch as, the police informer is not liable to be produced in Court nor his statement can be recorded by the Investigating Officer under Section 180 BNSS. Placing reliance upon the judgment of Supreme Court in Joginder Singh Vs. State of Punjab (1994) 4 SCC 260, the learned counsel for petitioner thus submits that since no credible and

reliable evidence has emerged against petitioner up to this stage, therefore, liberty of petitioner is liable to be protected by this Court.

11. In all fairness, the learned counsel for petitioner has fairly pointed out that named accused Yogesh Chahar approached this Court by means of Criminal Misc. Writ Petition No. 5361 of 2026 (Yogesh Chahar Vs. State of U.P. and 3 Others). However, the same was dismissed by this Court, vide order dated 23.03.2026. For ready reference, the order dated 23.03.2026 is reproduced herein below;-

"1. Heard learned counsel for the petitioner, learned AGA for the State and perused the record.

2. The instant writ petition has been filed by the petitioner with the prayer to quash the impugned F.I.R. dated 20.12.2025 giving rise to Case Crime No. 0354 of 2025, under Sections 8/20/29 of N.D.P.S. Act, Police Station Kirawali, District Pashchimi (Commissionerate Agra).

3. Perusal of the impugned F.I.R. shows that the F.I.R. in the instant case has been registered on the basis of recovery of 193 Kg of Ganja and as per the allegations made therein, it is alleged that an information was received by the informer that one Jakariya @ Jaka, resident of Vrindavan, Mathura, alongwith his associates Kishan Singh @ Anna and Yogesh Chahar (present petitioner) are indulging in illegal smuggling of Ganja and through the co-accused- Kishan Singh @ Anna, the said contraband substance (Ganja) has been brought in, which has been concealed somewhere near the Leather Park falling in the jurisdiction of the Police Station Kirawali.

4. Again on 19.12.2025, another information was received from the informer that the accused Jakariya @ Jaka alongwith Kishan Singh @ Anna and Yogesh Chahar, having different mobile numbers, are indulging in illegal smuggling of contraband article (Ganja).

5. It is further alleged that Kishan Singh @ Anna and his brother-in-law Yogesh Chahar had brought in the contraband article (Ganja) belonging to Jakariya and was carrying it to the village Jangara, native place of the

petitioner- Yogesh Chahar, however, under the fear of interception by the police, they had concealed the said contraband article in the bushes near the gate of the Leather Park, from where, the contraband article is shown to have been recovered, kept in six plastic bags, which was weighed and was found to be 193 Kg and the same was taken into the possession and necessary recovery memo was prepared and based on the same, impugned F.I.R. has been lodged against the petitioner under the provisions of N.D.P.S. Act.

6. Learned counsel for the petitioner has submitted that the petitioner is wholly innocent and has been falsely implicated in the present case due to ulterior motive.

7. Learned counsel for the petitioner has next submitted that from the allegations made in the impugned F.I.R., prima facie no offence, whatsoever, is disclosed against the petitioner and as such, impugned F.I.R. is liable to be quashed.

8. Per contra, learned AGA for the State has vehemently opposed the aforesaid prayer of the petitioner and has submitted that on the basis of information given by the informer, which specifically shows the involvement of the petitioner alongwith two other accused persons, huge quantity of contraband article (193 Kg of Ganja) in precise has been recovered and taken into the possession.

9. Learned AGA has further submitted that from the allegations made in the impugned F.I.R., involvement of the petitioner is writ large on the face of it and prima facie, offence is clearly disclosed against the petitioner and the matter requires deep probe and thorough investigation.

10. Learned AGA has further relied upon the decision of the Hon'ble Apex Court in the cases of Md. Sahabuddin & Ors. Vs. State of Assam : 2012 (119) AIC 45; Union of India Vs. Sanjeev V. Deshpande : AIR 2014 SC 3625; Hira Singh & Ors. Vs. Union of India & Ors. : AIR 2020 SC 3255; and State of Punjab Vs. Rakesh Kumar : AIR 2019 SC 84 and in view thereof, no interference at this stage is required and the instant writ petition is also liable to be dismissed.

11. Having considered the rival submissions made by learned

counsel for the parties and taking into consideration the specific allegation of the involvement of the petitioner in smuggling of huge narcotics substance and the recovery of 193 Kg of contraband article, which has been taken into the possession by the police and due recovery memo has been prepared, clearly indicating the involvement of the petitioner in the present case, as such, we are of the opinion that prima facie, offence is clearly disclosed against the petitioner.

12. Further, keeping in view the law laid down by the Hon'ble Apex Court as discussed in the preceding paragraphs and the submissions made by learned AGA for the State and keeping in view the seriousness and gravity of the offence, we are of the opinion that the impugned F.I.R., which clearly discloses cognizable offences against the petitioner, cannot be nipped in the bud at this nascent stage, particularly looking to the huge recovery.

13. In view thereof, the prayer for quashing the impugned F.I.R. is wholly misconceived at this stage and is therefore refused.

14. The instant writ petition lacks merits and is accordingly dismissed."

12. Learned counsel for petitioner would contend that even though the writ petition filed by co-accused has been dismissed by this Court, however, the said decision shall not constitute res-judicata as the grounds urged in support of present writ petition have not been considered by the co-ordinate Division Bench.

*13. According to the learned counsel for petitioner, though the FIR is not an encyclopedia of the prosecution case but it does disclose the basic prosecution case, vide (i). **Manoj and Others Vs. State of Maharashtra, (1999) 4 SCC 268**, (ii). **Subhash Kumar Vs. State of Uttarakhand, (2009) 6 SCC 641** and (iii). **Achhar Singh Vs. State of M.P. (2021) 5 SCC 543**. When the basic prosecution case is examined in the light of circumstances enumerated above, no offence can be said to have been committed by petitioners.*

14. It is lastly contended by the learned counsel for petitioner that no person has been arrested by the Investigating Officer

in connection with concerned case crime number till date. As such, no statement of any person under Section 180 BNSS has been recorded up to this stage, on the basis of which, an inference can be drawn that there is some element of conspiracy against petitioner in the crime in question. The entire prosecution is based upon the information given by police informer and not on any cogent and reliable evidence.

15. On the above conspectus, it is thus contended by the learned counsel for petitioner that the impugned FIR cannot be sustained and is, therefore, liable to be quashed by this Court.

16. Per contra, the learned A.G.A. for State respondents 1, 2, 3 & 4 has vehemently opposed the present writ petition. Learned A.G.A. submits that since the impugned FIR discloses the commission of a cognizable offence, therefore, no interference is warranted by this Court in present writ petition. Much emphasis was laid by the learned A.G.A. upon the order dated 23.03.2026, whereby the writ petition filed by co-accused has been dismissed by a co-ordinate Division Bench . Learned A.G.A. strenuously urged that since the writ petition filed by co-accused has already been dismissed, therefore, the present writ petition is also liable to be dismissed. However, he could not dislodge the factual and legal submissions urged by the learned counsel for petitioner in support of present writ petition as noted herein above with reference to the record at this stage.

17. Be that as it may, having heard, the learned counsel for petitioner, the learned A.G.A. for State-respondents 1, 2, 3 & 4 and upon perusal of record, this Court finds that matter requires consideration.

18. Notice on behalf of State-respondents 1, 2, 3 & 4 has been accepted by the learned A.G.A.

19. Issue notice to first informant-respondent-4.

20. Steps for service upon first informant-respondent-5 shall be taken by the learned counsel for petitioner within the time period provided under the Rules of Court.

21. All the respondents may file their respective counter affidavits within 6 weeks.

22. *Petitioners will have 2 weeks thereafter to file his rejoinder affidavits.*

23. *List this writ petition for admission before appropriate Bench on 25.05.2026.*

24. *Considering the facts and circumstances of the case and also the submissions urged by the learned counsel for petitioner in support of this writ petition as noted herein above, as an interim measure, it is, hereby, provided that until further orders of this Court, petitioner shall not be arrested in Case Crime No. 0354 of 2025, under Sections 8/20/29 NDPS Act, Police Station-Kirawali, District-Agra.*

25. *We are not unmindful of the judgment of Supreme Court in **Pradnya Pranjal Kulkarni Vs. State of Maharashtra and Another, 2025 SCC OnLine SC 1948**, therefore, we direct that investigation of concerned case crime number may go on but the requisite charge sheet/police report in terms of Section 193 BNSS shall not be submitted by the Investigating Officer before Court till the pendency of present writ petition.*

26. *The matter shall not be treated as tied up or part heard to this Bench.*

27. *Assignment, if any, stands discharged."*

7. A perusal of the aforesaid order indicates that this Court, having found substance in the submissions made by the petitioner therein, permitted the investigation to continue but stayed the submission of the charge sheet/police report during the pendency of the writ petition. The applicant's case stands on a similar footing to that of the co-accused, Jakariya @ Jaka. The applicant has also undertaken to cooperate with the investigation and render assistance to the Investigating Officer. Similarly situated co-accused Kishan @ Anna has been granted anticipatory bail by this Court in **CRIMINAL MISC. ANTICIPATORY BAIL APPLICATION U/S 482 BNSS No. - 5124 of 2026**.

8. Prima facie, in the opinion of this Court, since no recovery is said to have been made either at the instance of the applicant or from his possession or from any premises under his control, and the recovery is stated to have been made from an open place, as also the fact that the submission of the police report itself has been stayed by this Court in the case of the co-accused, a case for grant of anticipatory bail is made out.

9. The anticipatory bail application of the applicant is **allowed**.

10. In the event of the arrest of the applicant- **Yogesh Chahar**, involved in the aforesaid case crime, he shall be released on anticipatory bail, till filing of the police report under Section 193 BNSS, on his furnishing a personal bond and surety each in the like amount to the satisfaction of the Station House Officer of the police station/Court concerned, with the following conditions:-

i. The applicant shall make himself available for interrogation by a police officer as and when required;

ii. 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 or to any police officer;

iii. The applicant shall not leave India without the previous permission of the Court;

iv. The applicant shall not pressurize/intimidate the prosecution witness;

11. In case of breach of any of the above conditions, the Court concerned shall be at liberty to cancel the bail.

12. It is made clear that observations made hereinabove are exclusively for deciding the instant anticipatory bail application and are not to be considered to be an opinion on the merits of the case.

August 25, 2026
Sachin

(Rajiv Lochan Shukla,J.)