



2026:AHC:160720

HIGH COURT OF JUDICATURE AT ALLAHABAD

**CRIMINAL MISC. ANTICIPATORY BAIL APPLICATION U/S 482 BNSS No.
- 7806 of 2026**

Smt Sushila Devi

.....Applicant(s)

Versus

State of U.P.

.....Opposite
Party(s)

Counsel for Applicant(s)	:	Roopesh Kumar Mishra
Counsel for Opposite Party(s)	:	G.A.

Court No. - 72

HON'BLE VIVEK KUMAR SINGH, J.

1. Heard learned counsel for the applicant, 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. 842 of 2016, under Sections 498A, 304B IPC and Section 3/4 of D.P. Act, Police Station Kadar Chowk, District Budaun with a prayer to grant him anticipatory bail.

3. Learned counsel for the applicant submits that the applicant is absolutely innocent and has been falsely implicated in the present case. The applicant is the mother-in-law of the deceased. The first information report was lodged against the applicant and other co-accused on 20.11.2016. General and omnibus allegations have been levelled against the applicant and other co-accused stating therein that the deceased was subjected to cruelty and harassment for demand of dowry. It is alleged that the deceased was done to dowry death by the accused persons but as per postmortem report no ante-mortem injury was found on the body of the deceased, therefore, viscera was preserved but no poison was found in the viscera report dated 1.1.2017. Thereafter, the Investigating Officer submitted final report in this case. The first informant, being aggrieved by submission of the final report, filed protest petition and the same protest petition was allowed by the learned court concerned and the case was treated as a complaint case. Statements of the first informant and other witnesses were recorded under Sections 200 Cr.P.C. and 202 Cr.P.C.

Thereafter, the applicant was summoned to face criminal trial vide order dated 31.1.2025. It is further submitted that the investigation of the present case is completed and final report was submitted. The applicant has been summoned on the whims of the first informant. It is further submitted that the applicant has no criminal history and custodial interrogation is no longer required. It is further submitted that the co-accused Ramjee has already been granted anticipatory bail by this Court vide order dated 2.7.2026 in Criminal Misc. Anticipatory Bail Application u/s 482 BNSS No. 5750 of 2026.

4. On the other hand, learned A.G.A. has opposed the application for anticipatory bail, however, he does not dispute the factual aspect.

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

6. From perusal of record, no external injury was found on the body of the deceased and no poison was found in the viscera report. The Investigating Officer submitted final report in this case and the case was treated as a complaint case. The applicant was summoned to face criminal trial vide order dated 31.1.2025. The investigation is already completed and there is no requirement of custodial interrogation.

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. Insofar 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. Hence, considering the settled principles 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 of the merits of the case, in my view, it is a fit case for anticipatory bail to the applicant till conclusion of trial in the matter.

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

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

August 3, 2026
Lalit Shukla