



2026:AHC:162161

HIGH COURT OF JUDICATURE AT ALLAHABAD

**CRIMINAL MISC. ANTICIPATORY BAIL APPLICATION U/S 482 BNSS No.
- 7858 of 2026**

Kunwarpal

.....Applicant(s)

Versus

State Of U.P. And 3 Others

.....Opposite
Party(s)

Counsel for Applicant(s)	:	Alok Kumar Singh
Counsel for Opposite Party(s)	:	G.A.

Court No. - 72

HON'BLE VIVEK KUMAR SINGH, J.

1. Based on the police report notice regarding pendency of the present bail application has been served upon the first informant / opposite party no. 2. Despite the service of notice no one has appeared on behalf of the opposite party no. 2 to contest the present bail application.

2. Heard learned counsel for the applicant and learned A.G.A for the State and perused the record.

3. The present application has been filed on behalf of the applicant in Case Crime No. 151 of 2026, under Sections 64(2)m, 89, 351(2), 351(3), 61(2) BNS and Section 5L/6 of POCSO Act, Police Station Simbhawali, District Hapur with a prayer to grant him anticipatory bail.

4. 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 further submitted that the alleged incident had taken place between 6.11.2025 to 2.6.2026, whereas the first information report was lodged after 15 days on 17.6.2026. Total 6 persons including the present applicant were implicated in the first information report. Main allegation of rape has been levelled against the co-accused Dushyant. Sofar as the role of applicant is concerned, only it is alleged that the applicant and others advised the victim to get the pregnancy terminated. The applicant stated to bear the medical expenses. When statement of the victim was recorded under Section 183 BNSS, she did not take name of the applicant. No allegation of

rape whatsoever has been levelled against the applicant. 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, he 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. It is further submitted that the co-accused Dushyant approached this Court by way of filing Criminal Misc. Anticipatory Bail Application u/s 482 BNSS No. 7208 of 2026, which was disposed of vide order dated 22.7.2026 with a direction to the applicant to apply for bail.

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 wof rape hile 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. No allegation has been levelled against the applicant in respect of alleged commission of offence of rape. Only it is stated against the applicant that he would bear the medical expenses of the abortion. The case of the applicant is distinguishable from the case of the co-accused Dushyant against whom allegation of rape was levelled. The victim did not take name of the applicant in her statement recorded under Section 183 BNSS. 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-**Kunwarpal** involved in aforesaid case shall be released on anticipatory bail till the conclusion of trial, on his/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/him 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.)

August 4, 2026

Lalit Shukla