



2026:AHC:173671

HIGH COURT OF JUDICATURE AT ALLAHABAD

**CRIMINAL MISC. ANTICIPATORY BAIL APPLICATION U/S 482 BNSS No.
- 7877 of 2026**

Asif Khan And Another

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite
Party(s)

Counsel for Applicant(s)	:	Syed Shahnawaz Shah
Counsel for Opposite Party(s)	:	G.A.

Court No. - 72

HON'BLE VIVEK KUMAR SINGH, J.

1. Supplementary affidavit filed today is taken on record.
2. Heard learned counsel for the applicants and learned A.G.A for the State and perused the record.
3. The present application has been filed on behalf of the applicants in Case Crime No. 606 of 2024, under Sections 318(4), 338, 336(3), 340(2), 61, 352, 351(3) of B.N.S., Police Station - Chandpur, District Bijnor, with a prayer to grant them anticipatory bail.
4. Vide earlier order dated 11.08.2026, the present anticipatory bail application qua the applicant no. 1 has been dismissed as having become infructuous.
5. The order is being passed in the present application in respect of applicant no. 2 only.
6. Learned counsel for the applicant no. 2 submits that the applicant no. 2 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 no. 2. It is further submitted that Smt. Gayja Parveen, co-accused of the present case, filed an Original Suit No. 167 of 2025 on 02.07.2025 against the informant of the present case which is still pending. A civil dispute has been maliciously dragged into criminal courts by informant of the present case and the F.I.R. was lodged on the direction

of learned magistrate passed under Section 175(3) of B.N.S.S. The applicant no. 2 is bona fide purchaser of the property in dispute. The sale deed was executed by co-accused Gayja Parveen in favour of the present applicant no. 2. The applicant no. 2 has no concern with the alleged offence and he has been falsely implicated. The entire sale consideration was paid by the applicant no. 2 to the seller of the property. The F.I.R. was lodged after a long delay which has not been satisfactorily explained. The criminal history of two cases has been explained by the applicant no. 2 in supplementary affidavit. Learned counsel for the applicant no. 2 further submits that the applicant no. 2 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 no. 2 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.

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

8. I have heard the rival submissions of both sides and perused the record.

9. 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.

10. 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.

11. Considering the settled principle of law regarding anticipatory bail, submissions of the learned counsel for the parties, nature of accusation, role of applicant no. 2 and all attending facts and circumstances of the case, without expressing any opinion on merits, a case for anticipatory bail is made out.

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

(i) In the event of arrest of the applicant no. 2- **Aurangzeb Khan** involved in aforesaid case shall be released on anticipatory bail till the conclusion of trial, on his 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 the court concerned.

(ii) The applicant no. 2 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 no. 2 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 no. 2 shall not leave India without the previous permission of the Court.

13. 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 no. 2, before the concerned court.

(Vivek Kumar Singh,J.)

August 18, 2026

A.P. Pandey