



2026:AHC-LKO:41688

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

**CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S 438 CR.P.C.
No. - 427 of 2026**

Vaibhav Upadhyay

.....Applicant(s)

Versus

State Of U.P. Thru. Addl. Chief Secy. Deptt. Home
Lko. And Another

.....Opposite
Party(s)

Counsel for Applicant(s)	: Pawan Kumar Pandey, Priya Singh
Counsel for Opposite Party(s)	: G.A., Mohd. Islam Khan, Sabir Ali

Court No. - 13

HON'BLE AVNISH SAXENA, J.

1. Heard Sri Pawan Kumar Pandye, learned counsel for the applicant, Sri Sabir Ali, learned counsel for the informant and Learned AGA for the State.
2. The present anticipatory bail application under Section 438 of CRPC has been filed by the applicant with a prayer to release him on anticipatory bail in Case Crime No. 134 of 2023, under Sections 147, 148, 504, 323, 324, 354(kha), 506 IPC, P.S. Jalalpur, District Ambedkar Nagar during pendency of the trial.
3. It is contended by learned counsel for the applicant that the matter is matrimonial in nature and the accused-applicant is husband. There are two FIRs lodged for the same incident by the wife and brother-in-law at two different police stations. The brother-in-law of the accused-applicant has lodged the present FIR at Police Station Jalalpur, District Ambedkar Nagar which was registered as Case Crime No.134 of 2023, whereas wife of the accused-applicant has lodged the FIR of the same incident before the Mahila Thana at district Ambedkar Nagar which was registered as Case Crime No.55 of 2023. In Case Crime No.55 of 2023, the accused-applicant is already granted anticipatory bail by Co-ordinate Bench of this Court vide order dated 19.06.2026 in Criminal Misc. Anticipatory Bail Application U/S 438 Cr.P.C. No.424 of 2026; 'Vaibhav Upadhyay Vs. State of U.P.' It is further contended that the accused-applicant has challenged the FIR bearing Case Crime No.134 of 2023 before the Co-

ordinate Bench of this Court in Application U/S 482 No.545 of 2024; 'Vaibhav Upadhyay @ Rahul and 6 Others Vs. State of U.P., wherein the Co-ordinate Bench of this Court vide order dated 29.04.2026 has directed the appellant to move bail application before the trial court. The applicant resorted to moving anticipatory bail application in place of bail application which has been taken into consideration by Co-ordinate Bench of this Court while disposing the anticipatory bail application referred hereinabove, the Court observed that the accused-applicant is at liberty to move bail application as well as the anticipatory bail application, as advised. The accused-applicant has moved the anticipatory bail application. He submits that there was matrimonial discord between the parties. During investigation, the applicant has not been arrested. The accused applicant has no criminal history. The accused applicant wants to appears before the trial court but apprehending arrest. Hence, seeks anticipatory bail.

4. Per contra learned AGA and learned counsel for the informant have opposed the prayer for bail of the applicant and submits that the injury caused to the victim is such that the accused-applicant does not deserve bail. The incident occurred when both the parties met for amicable solution of dispute at a guest house. Not only the accused-applicant, but his family members are also culprit in the incident. Hence, the bail application of accused-applicant is liable to be rejected.

5. Learned counsel for applicant further submits that the other family members who were also shown with the same role, their criminal proceedings were stayed.

6. The scope of ambit of anticipatory bail is encapsulated in three insightful judgments of Hon'ble Supreme Court right from **Gurubaksh Singh Sibbia Vs. State of Punjab** reported in (1980) 2 SCC 565, **Siddharam Satlingappa Mhetre Vs. State of Maharashtra** reported in (2011) 1 SCC 694 and **Sushila Aggarwal and others Vs. State (NCT of Delhi) and another** reported in (2020) 5 SCC 1, wherein it is consistently held by Hon'ble Apex Court that while granting anticipatory bail, the Court should consider the application of the applicant to evaluate the threat or apprehension of arrest vis-a-vis the nature and gravity of accusation, criminal antecedent of the accused, false or exaggerated

implication, need of custodial interrogation, willingness of the accused to cooperate in investigation and trial and the conduct of the accused and flight risk.

7. This Court while considering the gravity of accusation, no criminal history of accused-applicant, no arrest of accused-applicant during investigation and anticipatory bail granted in Case Crime No.55 of 2023 pertaining to the same incident and apprehension of arrest in the case vis-a-vis low flight risk and assurance of the accused in cooperating with the investigation and trial, is of considered view to grant anticipatory bail.

8. Accordingly, the anticipatory bail application is **allowed**.

9. The applicant- **Vaibhav Upadhyay** involved in the aforesaid case crime shall appear before the trial court or the Investigating Officer, as the case may be within 30 days from the date of this order and shall be released on bail on furnishing a personal bond of Rs. 25,000/- with two sureties each in the like amount to the satisfaction of the court concerned with following conditions :-

(i) 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 or tamper with the evidence.

(ii) The applicant shall not pressurize/intimidate the prosecution witnesses.

(iii) The applicant shall remain present, in person, before the trial court on the dates fixed for (i) opening of the case, (ii) framing of charge and (iii) recording of statement under Section 351 of BNSS.

(iv) The applicant shall file an undertaking to the effect that he/she shall not seek any adjournment on the dates fixed for evidence when the witnesses are present in the trial court.

(v) The applicant shall remain present before the trial court on each date fixed, either personally or through his counsel.

10. In case of breach of any of the above conditions, it shall be a ground for cancellation of bail.

11. It is clarified that anything said in this order is limited to the purpose of determination of this bail application and will in no way be construed as an expression on the merits of the case. The trial court shall be absolutely free to arrive at its independent conclusions on the basis of evidence led unaffected by anything said in this order.

(Avnish Saxena,J.)

June 22, 2026

Arti/-