



2026:AHC:169996

HIGH COURT OF JUDICATURE AT ALLAHABAD

**CRIMINAL MISC. ANTICIPATORY BAIL APPLICATION U/S 482 BNSS No.
- 8282 of 2026**

Yar Mohammad Khan @ Zaid Khan

.....Applicant(s)

Versus

State of U.P.

.....Opposite
Party(s)

Counsel for Applicant(s) : Aman Singh Visen, Satyendra Kumar
Tripathi

Counsel for Opposite Party(s) : G.A., Sri Nivas Yadav

Court No. - 72

HON'BLE VIVEK KUMAR SINGH, J.

1. Heard Sri Satendra Kumar Tripathi, learned counsel for the applicant, Sri Sri Nivas Yadav, learned counsel for the informant and 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. 561 of 2025, under Sections 69, 351(2) BNS, Police Station Naini, District Prayagraj 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. 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 is said to have taken place on 25.5.2025, whereas the first information report was lodged after more than 5 months on 16.10.2025. The delay in lodging the first information report has not been satisfactorily explained by the first informant / victim. It is further submitted that the victim is a major girl, about 20 years of age and she is pursuing her LLB course. She alleged that the offence of rape was committed upon her in a hotel on 25.5.2025. It is further submitted that false allegations have been levelled by the victim. The victim never visited in hotel as alleged by her in her first information report. The Investigating Officer collected records of the hotel, where he found that the applicant and elder sister of the victim visited the hotel and their aadhar cards, deposited in the hotel, were made part of the case diary. The victim

has lodged the first information report in order to make pressure upon the applicant. It is further submitted that the arrest of the applicant was stayed by the Division Bench of this Court vide order dated 14.11.2025 in Criminal Misc. Writ Petition No. 25146 of 2025, however, the same was dismissed vide order dated 24.2.2026. The charge-sheet was submitted by the police. The applicant cooperated in the investigation. Now, the charge-sheet has been submitted in this case, therefore, there is no requirement of custodial interrogation of the applicant. There is no evidence to corroborate ocular version. 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.

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 the rival submissions of both sides and perused the record.

6. 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."

7. 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, and the case of the applicant is squarely covered by the aforesaid judgments, a case for anticipatory bail is made out.

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

(i) In the event of arrest/appearance of the applicant-**Yar Mohammad Khan @ Zaid Khan** involved in aforesaid case shall be released on anticipatory bail till the conclusion of trial, before the competent Court on his 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 him from disclosing such facts to the Court; and

(iv) The applicant shall not leave India without the previous permission of the Court.

9. 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 13, 2026

Lalit Shukla