



2026:AHC:179189

HIGH COURT OF JUDICATURE AT ALLAHABAD

**CRIMINAL MISC. ANTICIPATORY BAIL APPLICATION U/S 482 BNSS No.
- 6981 of 2026**

Shahbaz Khan

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite
Party(s)

Counsel for Applicant(s) : Ashok Kumar Mishra, Avesh Mishra
Counsel for Opposite Party(s) : G.A., Mahmudul Hasan

Court No. - 72

HON'BLE VIVEK KUMAR SINGH, J.

1. Heard Sri Ashok Kumar Mishra, learned counsel for the applicant, Sri Mahmudul Hasan, learned counsel for opposite party no.2/ informant/ victim, learned A.G.A for the State and perused the record.
2. This is the second anticipatory bail application filed on behalf of the applicant in Case Crime No.727 of 2025, under Sections 69, 351(2), 352 B.N.S., Police Station Kotwali Shahr, District Bijnor, with a prayer to grant him anticipatory bail.
3. The first anticipatory bail application, being Criminal Misc. Anticipatory Bail Application U/S 482 BNSS No. 1752 of 2026, was dismissed as not maintainable by the Coordinate Bench of this Court vide order dated 20.02.2026. The matter has been released by the earlier Court.
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 contended by the learned counsel that a false and frivolous first information report was lodged by the informant-victim, wherein she alleged that she was subjected to rape on the false promise of marriage. It is admitted case of the victim that she was a major girl, about 25 years of age and that she had been in touch with the applicant for the last four years and during this period they enjoyed a consensual relationship. It is next submitted that the FIR is a

result of broken relationship and the same was lodged when the relationship turned sour between them. The version of the victim kept changing and does not inspire much confidence to prosecution case.

5. Further submission was made by the learned counsel that ocular version is not corroborated with medical evidence. It is also submitted that throughout the prolonged period of four years, the victim kept completely quiet about the alleged sexual abuse, meted out to her, by the applicant until she learnt that the applicant was not going to marry her. Additionally, the long gap of four years between the first alleged act of sexual intercourse and continued relationship for four years, till the filing of the first information report makes it clear that the matter pertains to a love affair. When the relationship turned sour, the FIR was lodged by the victim due to ulterior motives. A case of consensual relationship between two adults have been converted into a criminal offence. It is further contended that the arrest of the applicant was stayed during the course of investigation vide order dated 26.09.2025 passed in Criminal Misc. Writ Petition No.22269 of 2025. Now the charge-sheet has been submitted in the present case. There is no requirement of custodial interrogation of the applicant. The applicant has no criminal antecedent.

6. Learned counsel for the applicant lastly contended that the applicant undertakes to cooperate during trial and shall appear as and when required by 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 trial, 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 **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."

10. In the case of **Mahesh Damu Khare Versus State of Maharashtra and Another, (2024) 11 Supreme Court Cases 398**, the Hon'ble Supreme Court has made observation that where physical relationship is maintained for a prolonged period knowingly by the woman, it cannot be said with certainty that the said physical relationship was purely because of the alleged promise of marriage. A woman may have reasons to have physical relationship other than the promise of marriage like, personal liking for the male partner.

11. In case of **Prashant Versus State of NCT of Delhi, (2025) 5**

Supreme Court Cases 764, the Hon'ble Supreme Court has observed that it is inconceivable that the complainant would continue to meet the accused or maintain a prolonged association or physical relationship with him in the absence of voluntary consent on her part.

12. Furthermore, the Hon'ble Supreme Court in the case of **Samadhan Versus State of Maharashtra and Another, 2025 SCC OnLine SC 2528** observed that on numerous occasions, taken note of the disquieting tendency wherein failed or broken relationships are given the colour of criminality. The offence of rape, being of the gravest kind, must be invoked only in cases where there exists genuine sexual violence, coercion, or absence of free consent. To convert every sour relationship into an offence of rape not only trivialises the seriousness of the offence but also inflicts upon the accused indelible stigma and grave injustice. Such instances transcend the realm of mere personal discord. The misuse of the criminal justice machinery in this regard is a matter of profound concern for the judiciary already facing a heavy load and calls for condemnation.

13. The Hon'ble Supreme Court in **Rajnish Singh @ Soni Vs. State of U.P. And Another, 2025 (4) SCC 197** held that where a woman willingly engages in a long-term relationship with a man, fully aware of its nature, and there is no cogent evidence to show that such relationship was induced by a misconception of fact or a false promise of marriage made in bad faith from the inception, the man cannot be held guilty of rape under Section 376 of the IPC.

14. In the case of **Pramod Kumar Navratna Versus State of Chhattisgarh and Others, 2026 SCC OnLine SC 154**, the Hon'ble Supreme Court held that the Courts have to be extremely careful and cautious in identifying the genuine cases filed under Section 376(2)(n) of the IPC by identifying the essential ingredients to constitute the said offence. Such genuine cases must be clearly demarcated from the litigation that arises from the cases of consensual relationships between consenting adults going acrimonious on account of dispute and disagreement or a future change of mind.

15. The Hon'ble Supreme Court in the case of **Ravish Singh Rana Versus State of Uttarakhand & Anr., 2025 SCC OnLine SC 1055** has made observation that the two able minded adults, if maintained a long term physical relations, then the presumption would arise that they have voluntarily chose the consensual relationship and subsequent non-fulfillment of promise of marriage would not attract any offence.

16. The Hon'ble Supreme Court in the case of **Pramod Suryabhan Pawar Versus State of Maharashtra And Another, (2019) 9 Supreme Court Cases 608** held that where the promise to marry is false and the intention of the maker, at the time of making the promise, itself was not to abide by it, but to deceive the woman so as to convince her to engage in sexual relations, there is a "misconception of fact" that vitiates the woman's "consent". However, mere breach of a promise cannot be said to be a false promise. Therefore, to establish a false promise, it would have to be demonstrated that the maker of the promise had no intention of upholding his word at the time of making the promise.

17. In **Sonu @ Subhash Kumar Vs. State of Uttar Pradesh and Another, (2021) 18 SCC 517**, the Hon'ble Supreme Court quashed the FIR and the proceedings upon noticing that relationship between the accused and the victim was of consensual nature and parties were in relationship for a period of one and a half years, and subsequently the accused had expressed disinclination to marry the prosecutrix which led to registration of FIR.

18. 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.

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

(i) In the event of arrest of the applicant- **Shahbaz Khan**, involved in the aforesaid case, he 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 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.

20. 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 25, 2026
Radhika