



2026:AHC:175266

HIGH COURT OF JUDICATURE AT ALLAHABAD

**CRIMINAL MISC. ANTICIPATORY BAIL APPLICATION U/S 482 BNSS No.
- 6756 of 2026**

Gulabdhhar Mishra

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite
Party(s)

Counsel for Applicant(s) : Uma Shanker Mishra, Vivek Shukla
Counsel for Opposite Party(s) : Ashutosh Mani Tripathi, G.A.

Court No. - 72

HON'BLE VIVEK KUMAR SINGH, J.

1. Heard Sri Vivek Shukla, learned counsel for the applicant, Sri Ashutosh Mani Tripathi, learned counsel for the informant, Shri Mohd. Afzal, learned counsel appearing for the State of UP and perused the record.

2. The present application has been filed on behalf of the applicant in Case Crime No.157 of 2026, under Sections 419, 420, 467, 468 and 471 IPC, Police Station Gopiganj, District Bhadohi, 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 contended that the alleged incident is said to have taken place between 11.06.2012 and 11.07.2012 whereas the FIR was lodged after 14 years on 23.04.2026. Prior to registration of the FIR, several litigations were pending between the applicant and the informant in the civil court as well as in the revenue court. The applicant has not forged any documents and that Will was executed by his brother/deceased in his favour. It is yet to be ascertained by the civil court as to whether the Will was written by the executor or it was a forged document. No *prima facie* offence is made out against the present applicant. Learned counsel for the applicant further submits that the applicant undertake 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. Per contra, learned AGA for the State as well as learned counsel for the informant have vehemently opposed the prayer made by the learned counsel for the applicant and submitted that there are allegations of forging the Will of the informant's father. The informant is the only daughter of her father and the applicant is the brother of her father, who have prepared a forged document. It is manifest from perusal of FIR that the document was prepared on 11.06.2012 whereas the father of the informant died on 12.06.2012. The forged documents were produced before the Sub-Registrar on 18.06.2012 i.e. after the death of the deceased and the same was got registered on 11.07.2012. The applicant and two other co-accused preferred a Criminal Misc. Writ Petition No.10540 of 2026 for quashing of the FIR, which was dismissed qua the present applicant. However, protection was granted to other co-accused vide order dated 08.05.2026.

5. I have heard the rival submissions of the learned counsel for the parties and perused the records.

6. In the present matter, the deceased died on 12.06.2012 whereas the documents were produced before the Sub-Registrar, Bhadohi on 18.06.2012 i.e. after the death of the deceased and the Will was got registered on 11.07.2012. The Division Bench has also dismissed the Criminal Misc. Writ Petition in respect of the present applicant vide order dated 08.05.2026 observing that a *prima facie offence* is made out against the present applicant.

7. In the case of **Srikant Upadhyay and Others vs. State of Bihar and Another, (2024) 12 SCC 382**, the Hon'ble Supreme Court has held that the power to grant anticipatory bail is an extraordinary power. While called upon to exercise the said power, the Court has to be very cautious as the grant of interim protection or protection to the accused in serious cases may lead to miscarriage of justice. When warrant of arrest or proclamation is issued, the applicant is not entitled to invoking extraordinary power. The relevant paragraph no. 30 of **Srikant Upadhyay (supra)** is quoted as under:

"30. We have already held that the power to grant anticipatory bail is an extraordinary power. Though in many cases it was held that bail is said to be a rule, it cannot, by any stretch of imagination, be said that anticipatory bail is the rule. It cannot be the rule and the question of its grant should be left to the cautious and judicious discretion by the Court depending on the facts and circumstances of each case. While called upon to exercise the said power, the Court concerned has to be very cautious as the grant of interim protection or protection to the accused in serious cases may lead to miscarriage of justice and may hamper the investigation to a great extent as it may sometimes lead to tampering or distraction of the evidence. We shall not be understood to have held that the Court shall not pass an interim protection pending consideration of such application as the Section is destined to safeguard the freedom of an individual against unwarranted arrest and we say that such orders shall be passed in eminently fit cases. At any rate, when warrant of arrest or proclamation is issued, the applicant is not entitled to invoke the extraordinary power. Certainly, this will not deprive the power of the Court to grant pre-arrest bail in extreme, exceptional cases in the interest of justice. But then, person(s) continuously, defying orders and keep absconding is not entitled to such grant."

8. In the case of **P. Chidambaram vs. Directorate of Enforcement, (2019) 9 SCC 24**, the Hon'ble Apex Court has held that arrest is a part of procedure of the investigation to secure not only the presence of the accused but several other purposes. The power under Section 438 of Cr.P.C./482 of B.N.S.S. has to be exercised sparingly. The privilege of the pre-arrest bail should be granted only in exceptional cases. The relevant paragraph no. 69 of **P. Chidambaram (supra)** is reproduced as under:

"69. Ordinarily, arrest is a part of procedure of the investigation to secure not only the presence of the accused but several other purposes. Power under Section 438 Cr.P.C. is an extraordinary power and the same has to be exercised sparingly. The privilege of the pre-arrest bail should be granted only in exceptional cases. The judicial discretion conferred upon the court has to be properly exercised after application of mind as to the nature and gravity of the accusation; possibility of the applicant fleeing justice and other factors to decide whether it is a fit case for grant

of anticipatory bail. Grant of anticipatory bail to some extent interferes in the sphere of investigation of an offence and hence, the court must be circumspect while exercising such power for grant of anticipatory bail. Anticipatory bail is not to be granted as a matter of rule and it has to be granted only when the court is convinced that exceptional circumstances exist to resort to that extraordinary remedy. "

9. It would be apposite to refer herein to a judgment of the Hon'ble Supreme Court titled as **Kishor Vishwasrao Patil vs. Deepak Yashwant Patil and another, 2022 SCC OnLine SC 2528**, relevant paragraph nos.14 and 15 whereof read as under:

"14.....

74. Ordinarily, arrest is a part of the process of the investigation intended to secure several purposes. There may be circumstances in which the accused may provide information leading to discovery of material facts and relevant information. Grant of anticipatory bail may hamper the investigation, Pre-arrest bail is to strike a balance between the individual's right to personal freedom and the right of the investigating agency to interrogate the accused as to the material so far collected and to collect more information which may lead to recovery of relevant information.....

6.....

*75. Observing that the arrest is a part of the investigation intended to secure several purposes, in **Adri Dharan Das v. State of W.B. [Adri Dharan Das v. State of W.B., (2005) 4 SCC 303: 2005 SCC (Cri) 933]**, it was held as under: (SCC p. 313, para 19)*

"19. Ordinarily, arrest is a part of the process of investigation intended to secure several purposes. The accused may have to be questioned in detail regarding various facets of

motive, preparation, commission and aftermath of the crime and the connection of other persons, if any, in the crime. There may be circumstances in which the accused may provide information leading to discovery of material facts. It may be necessary to curtail his freedom in order to enable the investigation to proceed without hindrance and to protect witnesses and persons connected with the victim of the crime, to prevent his disappearance, to maintain law and order in the locality. For these or other reasons, arrest may become an inevitable part of the process of investigation. The legality of the proposed arrest cannot be gone into in an application under Section 438 of the Code. The role of the investigator is well defined and the jurisdictional scope of interference by the court in the process of investigation is limited. The court ordinarily will not interfere with the investigation of a crime or with the arrest of the accused in a cognizable offence. An interim order restraining arrest, if passed while dealing with an application under Section 438 of the Code will amount to interference in the investigation, which cannot, at any rate, be done under Section 438 of the Code."

76. In *Siddharam Satlingappa Mhetre v. State of Maharashtra and Others*, (2011) 1 SCC 694: (2011) 1 SCC (Cri) 514], the Supreme Court laid down the factors and parameters to be considered while dealing with anticipatory bail. It was held that the nature and the gravity of the accusation and the exact role of the accused must be properly comprehended before arrest is made and that the court must evaluate the available material against the accused very carefully. It was also held that the court should also consider whether the accusations have been made only

with the object of injuring or humiliating the applicant by arresting him or her.

77. After referring to **Siddharam Satlingappa Mhetre** [**Siddharam Satlingappa Mhetre v. State of Maharashtra**, (2011) 1 SCC 694: (2011) 1 SCC (Cri) 514] and other judgments and observing that anticipatory bail can be granted only in exceptional circumstances, in **Jai Prakash Singh v. State of Bihar** [**Jai Prakash Singh v. State of Bihar**, (2012) 4 SCC 379: (2012) 2 SCC (Cri) 468], the Supreme Court held as under: (SCC p. 386, para 19)

*"19. Parameters for grant of anticipatory bail in a serious offence are required to be satisfied and further while granting such relief, the court must record the reasons therefor. Anticipatory bail can be granted only in exceptional circumstances where the court is prima facie of the view that the applicant has falsely been enroled in the crime and would not misuse his liberty. (See **D.K. Ganesh Babu v. P.T. Manokaran** [**D.K. Ganesh Babu v. P.T. Manokaran**, (2007) 4 SCC 434 : (2007) 2 SCC (Cri) 345], **State of Maharashtra v. Mohd. Sajid Husain Mohd. S. Husain** [**State of Maharashtra v. Mohd. Sajid Husain Mohd. S. Husain**, (2008) 1 SCC 213: (2008) 1 SCC (Cri) 176] and **Union of India v. Padam Narain Aggarwal** [**Union of India v. Padam Narain Aggarwal**, (2008) 13 SCC 305: (2009) 1 SCC (Cri) 1].)"*

Economic offences

78. Power under Section 438 CrPC being an extraordinary remedy, has to be exercised sparingly; more so, in cases of economic offences. Economic offences stand as a different class as they affect the economic fabric of the society. In

Directorate of Enforcement v. Ashok Kumar Jain
[Directorate of Enforcement v. Ashok Kumar Jain, (1998) 2
SCC 105: 1998 SCC (Cri) 510], it was held that in economic
 offences, the accused is not entitled to anticipatory bail."

15. In *Sushila Agrawal and others v. State (NCT of Delhi) and Another*
reported in (2020) 5 SCC 1, Constitution Bench of this Court held that
 while considering an application for grant of pre-arrest 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 or likelihood of fleeing justice. The Court held:-

"92.4. 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; equally
 whether and if so, what kind of special conditions are to be
 imposed (or not imposed) are dependent on facts of the case,
 and subject to the discretion of the court."

10. As per the allegations put forth in the FIR, serious allegations have been
 levelled against the applicant. The investigation is at a preliminary stage, and
 the custodial interrogation of the applicant is necessary to unearth the truth.
 Learned counsel for the applicant has failed to demonstrate that the case
 registered against him is false. At this stage, there is no material on record to
 hold that a prima facie case is not made out against the applicant. The
 material that has come on record and the preliminary investigation, appears
 to establish a reasonable basis for the accusations.

11. In view of this Court, the parameters of granting regular bail and
 anticipatory bail are different and it is not necessary that the grounds which
 are sufficient to enlarge an accused on regular bail must also be sufficient to
 enlarge them on anticipatory bail. Further, the Constitution Bench of the
 Apex Court in the case of **Gurbaksh Singh Sibbia and others Vs. State of**
Punjab, (1980) 2 SCC 565 also observed that the power to grant
 anticipatory bail is an extraordinary power and therefore, in view of this
 Court being extraordinary power it cannot be used in routine manner.

12. Therefore, considering the facts and circumstances of the case discussed above, in my view, applicant is not entitled to be released on anticipatory bail.

13. Accordingly, the instant anticipatory bail application stands **dismissed**.

(Vivek Kumar Singh,J.)

August 19, 2026
Nitendra