



2026:AHC-LKO:40812

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

**CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S 438 CR.P.C.
No. - 397 of 2026**

Jauwar Husain And 2 Others

.....Applicant(s)

Versus

State Of U.P. Thru. Prin. Secy. Home Lko. And
Another

.....Opposite
Party(s)

Counsel for Applicant(s) : Syed Ahmad Mehdi, Saniya Ansari
Counsel for Opposite Party(s) : G.A., Ajay Kumar Pandey

Court No. - 11

HON'BLE RAJEEV SINGH, J.

1. Supplementary affidavit filed by learned counsel for the applicants is taken on record.
2. Heard learned counsel for the applicants, learned A.G.A. for the State and Sri Santosh Dubey, Advocate holding brief of Sri Ajay Kumar Pandey, learned counsel for the complainant.
3. The instant anticipatory bail application has been filed by the applicants with a prayer to enlarge her on anticipatory bail in Case Crime No. 278 of 2023 u/s 147, 148, 308, 323, 352, 504, 506 I.P.C., Police Station- Inayat Nagar, District- Ayodhya.
4. Learned A.G.A. as well as learned counsel for the complainant submit that proceeding under Section 82 Cr.P.C. has already been initiated, therefore, present application for anticipatory bail is not maintainable.
5. Learned counsel for the applicants relied on the judgment of Hon'ble Supreme Court in the case of **Asha Dubey Vs. State of M.P.** passed in **Criminal Appeal No.4564 of 2024** and submits that merely on the basis of issuance of proceedings under Section 82 Cr.P.C. applicants are not barred to file anticipatory bail application.

6. Considering the submissions of learned counsel for the parties as well as judgment relied by learned counsel for the applicants, as Hon'ble Supreme Court in the aforesaid case considered that there is no embargo on considering the application for grant of anticipatory bail once the declaration under Section 82 of Cr.P.C. has been initiated, therefore, objection raised by learned A.G.A. as well as learned counsel for the complainant is hereby rejected.

7. Learned counsel for the applicant submits that applicant has been falsely implicated in the present case and during the course of investigation, he never misuse the liberty given by the Investigating Officer. He further submits that applicants were not aware about the summons and when this fact came into their notice that charge sheet has been submitted then immediately, application for anticipatory bail was filed but the learned court below rejected the same, therefore, applicants are entitled for anticipatory bail.

8. Learned A.G.A. as well as learned counsel for the complainant vehemently oppose the prayer of the applicants but they do not dispute the fact that there is no evidence that applicant misused the liberty given by the Investigating Officer during the course of investigation and the alleged offence is less than seven years.

9. Considering the submissions of learned counsel for the parties and going through the contents of the F.I.R. as well as other relevant materials, it is evident that alleged offence is less than seven years and during the course of investigation, he was not taken into custody and custodial interrogation is not necessary in the case in question. Therefore, the applicants are entitled for anticipatory bail. Applicants are directed to file personal bond of Rs.20,000/- before the trial court within a period of two months from today. In case the applicants are taken into custody by Investigating Officer/Investigating Agency, they shall be released forthwith on anticipatory bail after taking personal bond of **Rs. 50,000/-** and two sureties each in the like amount before the competent court within a period of two months from today with the following conditions:-

(i) The applicants shall not commit or participate in any offence

similar to the offence of which they are accused, or suspected, of the commission of which they are suspected.

(ii) The applicants 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 them from disclosing such facts to the Court or to any police officer or tamper with the evidence.

(iii) The applicants shall remain present, in person, before the Trial Court on dates fixed for (1) opening of the case, (2) framing of charge and (3) recording of statement under Section 313 Cr.P.C./351 B.N.S.S. If in the opinion of the Trial Court absence of the applicants are deliberate or without sufficient cause, then it shall be open for the Trial Court to treat such default as abuse of liberty of bail and proceed against them in accordance with law.

10. With above directions, the anticipatory bail application is ***allowed***.

(Rajeev Singh,J.)

June 9, 2026

GauraV/-