



2026:AHC:170593

HIGH COURT OF JUDICATURE AT ALLAHABAD

**CRIMINAL MISC. ANTICIPATORY BAIL APPLICATION U/S 482 BNSS No.
- 7716 of 2026**

Aaris

.....Applicant(s)

Versus

State of U.P.

.....Opposite
Party(s)

Counsel for Applicant(s)	:	Kuldeep Singh Tomar
Counsel for Opposite Party(s)	:	G.A., Sandeep Kumar Patel

Court No. - 72

HON'BLE VIVEK KUMAR SINGH, J.

1. Heard Sri Kuldeep Singh Tomar, learned counsel for the applicant, Sri Abhishek Kumar Jaiswal, learned counsel for the informant, 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.282 of 2025, under Sections 115(2), 131, 352, 351(2), 110 BNS, Police Station Khatauli, District Muzaffarnagar, with a prayer to grant him anticipatory bail.

3.The prosecution case, in brief, is to the effect that a first information report was lodged by the first informant Nafees Ahmad on 26.07.2025, under Sections 115(2), 131, 352, 351(2), 110 BNS, in respect of alleged incident dated 25.07.2025. The FIR was registered as Case Crime No.282 of 2025, at Police Station Khatauli, District Muzaffarnagar. The applicant and three other co-accused were nominated in the FIR dated 26.07.2025, wherein it is alleged that on 25.07.2025 at 9:00 am, son of the informant namely, Mohd. Javed was cleaning the dung pit. All of sudden the applicant and three other co-accused armed with deadly weapons reached there and assaulted the injured. The applicant caused injury by sharp edged weapon (spade) on head of the injured. The injured was got admitted in the hospital by the informant.

4. As per the medical examination report of the injured-Mohd. Javed, he sustained as many as three injuries on his person. Injury no.1 was

lacerated wound of size 1.5 cm x 0.5 cm x scalp deep on left side top of head. The other two injuries were red contusion and read contused traumatic swelling, which were found to be simple in nature. X-ray report of the injured was prepared on 06.08.2025 and according to radiologist report, fracture of left parietal and occipital bones were found. Injury no.1 was opined to be grievous in nature.

5. The statements of the informant as well as injured-Mohd Javed were recorded. They reiterated the FIR version and alleged that the applicant caused injury on the head of the injured by spade.

6. Learned counsel for the applicant submitted 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 FIR was lodged after more than 37 hours, which has not been properly explained by the prosecution; no offence whatsoever has ever been committed by the applicant. There was no intention or motive to commit the alleged offence. There was no enmity between the applicant and the injured. It is also submitted that during the investigation, the applicant was not arrested by the police and notice was given to him under Section 35(3) BNSS since the alleged offences were punishable below 7 years of imprisonment. Now, the chargesheet has been submitted before the learned court concerned on 14.09.2025. It is further contended that the applicant has no criminal antecedent to his credit. 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.

7. The Learned counsel for the applicant has relied upon a decision of the Supreme Court in Petition for **Special Leave Petition (Crl.) No. 11375 of 2025 (Smt. Shalini Bhateja and Another Vs. The State of Uttar Pradesh and Others)** and a decision of this Court in **APPLICATION U/S 528 BNSS No. - 6400 of 2025 (Smt. Bacchi Devi Vs. State of U.P. and Another)**. The learned counsel for the applicant has strenuously

relied upon the directions given in the case of **Smt. Bachhi Devi (supra)**. The directions given in the case of **Smt. Bachhi Devi (supra)** are being reproduced hereinbelow:-

"38. Based on the foregoing deliberations, and to give effect to the constitutional guarantees under Article 21 of the Constitution of India, this Court, in exercise of the powers vested in it under Article 227 of the Constitution and Section 528 of the BNSS, and to secure the ends of justice as well as to implement the directions issued in Satender Kumar Antil (supra), hereby directs as follows:

(i) All District Judges shall ensure that, in cases where the charge-sheet has been filed without arrest- whether because custodial interrogation was not effected during investigation by Investigating Officer, or the accused had secured anticipatory bail/protective orders under Article 226 of the Constitution or Section 528 of the BNSS and duly cooperated during investigation- the trial court shall not remand the accused to judicial custody upon appearance pursuant to summons, nor insist upon filing of regular or anticipatory bail applications. The accused shall be permitted to appear and furnish a personal bond at the first instance, in terms of Musheer Alam (supra) and Satender Kumar Antil (supra). The requirement of surety under Section 91 BNSS may be considered subsequently at the court's discretion to ensure appearance of the accused.

(ii). At the stage of proceedings under Sections 88, 170, 204, and 209 Cr.P.C. (corresponding sections 91, 190, 227 and 232 of BNSS), the trial court- whether presided over by a District Judge, Additional District and Sessions Judge, or Magistrate- shall inform the accused of his right to furnish a personal bond at the first instance, and may require surety subsequently, if necessary.

(iii). Immediately after appearance of accused in response to summons, the court shall comply with Sections 230 and 231 of BNSS, 2023, committing the case to the court of session

when exclusively triable by it, and proceed to the next trial stage without unnecessary delay.

(iv). For the sake of clarity, when the trial court encounters such anticipatory bail or protective orders under Article 226 or Section 528 BNSS specifying protection till the filing of the charge-sheet, or direct that "no coercive action"/"stay on arrest shall operate until filing of charge sheet", these protections shall be deemed to continue until the conclusion of trial, in line with Gurbaksh Singh Sibbia (supra), Sushila Aggarwal (supra), Sidharth (supra), Satender Kumar Antil (supra), and Musheer Alam (supra) unless supported by with cogent reasons, making out an exceptional case. This direction aligns with the consistent position adopted by the Supreme Court, beginning with Gurbaksh Singh Sibbia (supra), affirmed in Sushila Aggarwal (supra), clarified in Sidharth (supra), and reiterated in Satender Kumar Antil (supra) and Musheer Alam (supra). A reference may be invited to paragraphs 43, 44, 46 and 47 of the order dated 11.7.2022; paragraph no.3 of order dated 7.10.2021; paragraph no.6 of order dated 16.12.2021; paragraph no.4, 5 and 6 of order dated 21.3.2023; paragraph nos.7(ii) of order dated 2.5.2023; paragraph nos.229 to 239 of the order dated 13.2.2024; paragraph nos.79 to 85 of the order dated 6.8.2024 passed in Satender Kumar Antil v. CBI, [all the orders mentioned hereinabove have been passed by Supreme Court in SLP (Crl.) No.5191 of 2021].

(v). The Joint Director (Prosecution) in each district shall maintain detailed records of all such cases where trial courts remanded accused persons to custody, despite charge-sheets being filed without prior arrest, contrary to the Supreme Court directives in Arnesh Kumar (supra), Sidharth (supra), Satender Kumar Antil (supra), and observation made in Musheer Alam (supra).

(vi). All Jail Superintendents shall maintain corresponding

records of such cases. The record shall be maintained in a register documenting cases along with a remand order where an accused has been sent to jail by the trial court despite not being arrested during the investigation and the judicial remand is contrary to the judgments mentioned in preceding paragraph.

(vii). The Additional Director General of Police (Prosecution), Directorate of Prosecution, Lucknow, shall compile an annual, centralised record of all such instances, based on data from Joint Directors (Prosecution), and Jail Superintendents. This record shall be reviewed periodically, submitted to higher authorities, including the Registrar General of the High Court. It shall be used to assess the conduct of Judicial and Prosecuting Officers. The Directorate of Prosecution shall promote compliance with binding directions, protect the constitutional right to liberty, and preserve the integrity of the criminal justice system. The objective is to establish an additional layer of oversight at the zonal and regional levels, complementing the centralised data maintained by the Directorate of Prosecution.

(viii). The Director, JTRI, Lucknow, shall ensure sustained training programmes for judicial officers to secure compliance with this order.

(ix). The Secretary, District Legal Services Authority, in coordination with District Court Bar Associations, shall conduct regular legal awareness camps to educate and sensitise advocates on these directions.

(x). District Judges shall submit monthly reports to the High Court containing: (a) the number of cases in which judicial remand was ordered despite no prior arrest; (b) feedback on judicial training and compliance with these directions; and (c) details of legal awareness camps conducted. A reference is invited to paragraph 11(d) of the order dated 21.1.2025 passed in Satender Kumar Antil v. CBI.

(xi). It is noted that Sidharth (supra) was delivered on 16.08.2021 and reinforced in Satender Kumar Antil (supra) by order dated 11.7.2022. Despite this, violations persisted by the learned trial courts, leading the Supreme Court to direct skill enhancement training for a District Judge nearly a year after Satender Kumar Antil and two years after Sidharth. The Supreme Court also expressed concern that judges in other districts of Uttar Pradesh remained unaware or indifferent to these directions, therefore, it can safely be observed that the long-standing practice of District Judges merely endorsing 'seen' on the cover page of circulation letters for judgments has lost its efficacy. Therefore, the learned District Judges shall endorse: "Read, understood, and discussed with fellow judges of the district", and, after deliberating on this judgment with their fellow judges, submit a report to this effect to the Registrar General of this Court immediately upon receipt of a copy of this order. "

8. Per contra, learned AGA for the State as well as learned counsel appearing for the informant have vehemently opposed the prayer made by the learned counsel for the applicant and submitted that the applicant is the main accused, who caused spade injury on the head of the injured. The injured remained in hospital for a very long time. The ocular version is corroborated with medical evidence and considering the facts and circumstances of the present case, nature of accusation and gravity of offence, the applicant is not entitled to be released on anticipatory bail.

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

10. This Court has had the occasion for respectful consideration of the authorities cited by the Learned counsel for the applicant. The judgment of the Hon'ble Supreme Court in the case of **Shalini Bhateja (Supra)** relates to an offence of cheating involved in denying the refund. The specific contention before the Supreme Court and the direction thereafter are being reproduced hereinunder:-

"7. The parties are ad idem that the other proceedings as referred to in

paragraphs 11 and 12 need not be proceeded with. The proceedings by way of C.C. No. 19488 of 2025 filed before the learned Chief Judicial Magistrate, Agra has already concluded since it was not pressed. The proceedings before the learned Chief Magistrate, Karkadooma Court, C.C. No.1971 of 2023 SLP (Crl.) 11375 of 2025 shall also stand closed, without prejudice to the contentions of either of the parties. The Additional Sessions Judge-II, Shahdara, Karkardooma, Delhi shall also dispose of Criminal Revision No. 206 of 2024 filed before him as not pressed. Insofar as the present proceedings in CC No. 396 of 2025 from Police Station Tajganj, District Agra, chargesheet has been filed, in which circumstance, there is no reason why the petitioners should be taken into custody.

8. The petitioners shall appear before the jurisdictional court within a period of one month from today upon which they shall be granted bail and the charges read over on the same day. The bail shall be granted on such conditions as are found satisfactory by the jurisdictional court, at its discretion. It is further directed that the petitioners cooperate in the expeditious disposal of the case."

11. In the opinion of this Court, the directions given by the Supreme Court in the case of **Shalini Bhateja (Supra)** were restricted only to the facts and circumstances of that case. The ordersheet of the learned court concerned has not been appended alongwith the present application. It is not made clear as to whether the applicant has been duly summoned by the court concerned to face criminal trial. In the present matter, the applicant was not arrested during investigation as mentioned in paragraph no.14 of the affidavit. So far as the direction given by this Court in the case of **Smt. Bachhi Devi (supra)**, suffice it to say that the orders which were relied upon were **Musheer Alam (Supra)** and **Satender Kumar Antil Vs. Central Bureau of Investigation and Another** reported in **(2022) 10 SCC 51**. The directions given in paragraph No. 38(i) are expected to be followed by the court concerned/district courts, who have summoned the accused to face criminal trial. These directions were not issued for disposal of hearing on anticipatory bail application.

12. As stated above, **Shalini Bhateja (Supra)** relates to an offence of

cheating involved in denying the refund and it was the contention of the learned counsel that a civil dispute has been wrongly dragged into a criminal case. In that case three different FIRs were lodged before various police stations on the very same set of facts. The present case relates to Section 110 BNS (corresponding Section 308 IPC), wherein a person was caused injury by the applicant on his head, which was found to be grievous in nature. The evidence collected against the applicant indicates that he was *prima facie* involved in the alleged offence. The allegations in the first information report are against the applicant. The applicant has not been able to make out a case of false implication or malicious prosecution.

13. 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."

14. 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. "

15. 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.....

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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."

16. As per the averments put forth in the FIR, serious allegations have been levelled against the applicant. The investigating officer after due investigation, has submitted chargesheet against the present applicant. The material was collected by the investigating officer suggesting his guilt in the alleged offence. 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.

17. 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.

18. The application for anticipatory bail is hereby **rejected**.

19. It is made clear that the observations made hereinabove are only restricted to the disposal of this anticipatory bail and shall not be construed to be an opinion on the merits of the case. The applicant may appear and apply for regular bail within a period of three weeks from today, which shall be considered and disposed of on its own merits without being influenced by the observations made in this order.

(Vivek Kumar Singh,J.)

August 13, 2026

Nitendra