



2026:AHC:172411

HIGH COURT OF JUDICATURE AT ALLAHABAD

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

Sachin And 3 Others

.....Applicant(s)

Versus

State Of U.P. And 2 Others

.....Opposite
Party(s)

Counsel for Applicant(s)	:	Somveer
Counsel for Opposite Party(s)	:	G.A.

Court No. - 72

HON'BLE VIVEK KUMAR SINGH, J.

1. Heard learned counsel for the applicants and learned A.G.A for the State and perused the record.
2. Certified copy of the order-sheet of learned trial court has been produced by learned counsel for the applicant, which is taken on record. As per order-sheet of the learned trial court, the applicants are not appearing before the trial court though bailable warrants have been issued by the trial court.
3. The present application has been filed on behalf of the applicants in Case Crime No. 134 of 2021, under Sections 147, 148, 323, 324, 308, 325, 504, 506 IPC, Police Station Makkhanpur, District Firozabad with a prayer to grant them anticipatory bail.
4. Learned counsel for the applicants submit that the applicant are absolutely innocent and have been falsely implicated in the present case. They have nothing to do with the alleged offence in spite of that the police are trying to arrest the applicants. Learned counsel for the applicants further submits that the applicants 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 applicants are granted anticipatory bail, they 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.

5. On the other hand, learned A.G.A. has opposed the application for anticipatory bail. It is further submitted that the present anticipatory bail application is not maintainable in view of the judgment of Hon'ble Apex Court in the case of **Srikant Upadhyay and Others vs. State of Bihar and Another, (2024) 12 SCC 382**.

6. I have heard the rival submissions of both sides and perused the record.

7. On 30.1.2026, interim anticipatory bail was granted to the applicants by the following order:-

"1. Heard Sri Somveer, learned counsel for the applicants, Sri J.P. Singh, learned A.G.A. for the State and perused the record.

2. The present application has been moved seeking anticipatory bail in Case Crime no. 134 of 2021 under Sections 147, 148, 323, 324, 308, 325, 504, 506 IPC, Police Station Makkhanpur, District Firozabad with the prayer that in the event of arrest, the applicant may be released on bail.

3. It is contended by learned counsel for the applicants that no specific role has been assigned to any of the applicants and none of the injuries of the injured except injured Ramdev have been found to be grievous in nature in the supplementary injury report. It is further submitted that as per the FIR, applicants and three other accused persons are said to have assaulted the first informant side as a result of which, five persons are said to have received injuries. It was also submitted that applicants undertake to co-operate during trial and they would appear as and when required by the investigating agency or Court and in case they are granted anticipatory bail, they shall not misuse the liberty of bail and would obey all conditions of bail.

4. On the other hand, learned A.G.A. has opposed the prayer for grant of anticipatory bail and submits that applicants have criminal history of one case each.

5. Considering the facts and circumstances and without expressing any opinion on the merits of the case, let the applicants Sachin, Smt. Savita, Ravindra Singh and Satya Prakash in the event of their arrest, be released on interim anticipatory bail on their furnishing personal bond of Rs.

50,000/- with two sureties each in the like amount to the satisfaction of the Court concerned till 27.2.2026 with the following conditions :-

(i) The applicants shall not tamper with evidence and they would appear before the trial Court on the date fixed unless exempted by the Court concerned;

(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 him/her/them from disclosing such facts to the Court or to any police officer;

(iii) The applicants would co-operate during trial and would not misuse the liberty of bail.

(iv) The applicants shall not leave India without prior permission of the Court concerned.

6. In default of any of the conditions, the prosecution shall be at liberty to file appropriate application for cancellation of the interim anticipatory bail granted to the applicants.

7. Put up this case as fresh on 27.2.2026.8. In the meantime, applicants are directed to file supplementary affidavit bringing on record their entire criminal history."

8. The applicants are flouting the condition no. 1 of anticipatory bail order and they are not appearing before the learned trial court though the undertaking was given by them that they would appear before the learned trial court on the date fixed unless exempted by the court concerned.

9. It is manifest from perusal of the order-sheet that the applicants are not appearing before the court concerned and they are misusing the liberty of interim anticipatory bail granted to them vide order dated 30.1.2026.

10. It has been held in various judgment of the Hon'ble Supreme Court that bail is a rule but jail is an exception, but so far as anticipatory bail is concerned, it ought to have been granted in exceptional cases since it is an extraordinary power.

11. 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."

12. 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. "

13. 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) 11.)"

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."

14. As per the averments put forth in the FIR, serious allegations have been levelled against the applicant. Learned counsel for the applicants has failed to demonstrate that the case registered against them is false. At this stage, there is no material on record to hold that a prima facie case is not made out against the applicants. The material that has come on record and the preliminary investigation, appear to establish a reasonable basis for the accusations. Furthermore, the applicants are flouting the condition no. 1 of anticipatory bail order and they are not appearing before the learned trial

court though the undertaking was given by them that they would appear before the learned trial court on the date fixed unless exempted by the court concerned.

15. Therefore, considering the facts and circumstances of the case discussed above, in my view, the applicants are not entitled to be released on anticipatory bail.

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

17. Interim order, if any, stands vacated.

18. It is made clear that the bail bonds, if furnished by the applicants, stands cancelled.

19. Registrar (Compliance) is directed to send a copy of this order to the learned court concerned through fastest mode, who shall proceed further in accordance with law.

(Vivek Kumar Singh,J.)

August 17, 2026
Lalit Shukla