



2026:AHC:178692

HIGH COURT OF JUDICATURE AT ALLAHABAD

**CRIMINAL MISC. ANTICIPATORY BAIL APPLICATION U/S 482 BNSS No.
- 8521 of 2026**

Ram Babu

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite
Party(s)

Counsel for Applicant(s)	: Raghvendra Prakash, Sr. Advocate
Counsel for Opposite Party(s)	: G.A., Vijay Tripathi

Court No. - 72

HON'BLE VIVEK KUMAR SINGH, J.

1. Heard Sri Gaurav Kakkar, learned Senior Advocate assisted by Sri Raghvendra Prakash, learned counsel for the applicant, Sri Vijay Tripathi, 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. 135 of 2015, under Sections 147, 148, 302/149 of I.P.C., Police Station Achnera, District Agra, with a prayer to grant him anticipatory bail.

3. Learned Senior 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. The applicant along with other co-accused were nominated in the first information report dated 17.04.2015. It is alleged in the first information report that the applicant and other co-accused participated in the alleged offence. The Investigating Officer commenced the investigation and the same was completed by him on 14.09.2015 and that the chargesheet was submitted against co-accused Mukesh, Rakesh and Dinesh. The applicant and six other co-accused, who were nominated in the F.I.R., were exonerated by the investigating officer. The learned Magistrate took cognizance of the offence and thereafter the case was committed to the court of sessions, where charges were framed upon the co-accused. They pleaded not guilty and claimed to

be tried. It is further submitted that after framing of charges, the prosecution adduced evidence and statements of PW-1 Rajbir (brother of the deceased), PW-2 Smt. Kamlesh (wife of the deceased) were recorded during the course of trial on 27.06.2016 and 30.07.2018 respectively and thereafter the application under Section 319 Cr.P.C. / 358 BNSS was moved on 09.07.2026 by the prosecution to summon the applicant to face criminal trial. The said application moved under Section 319 Cr.P.C. / 358 BNSS was allowed by the learned trial court vide order dated 09.07.2026. The summoning order dated 09.07.2026 attained its finality.

4. Further submission was made by learned Senior Counsel for the applicant that statement of PW-2 was recorded on 30.07.2018, but no application was moved on her behalf just after completion of her statement. In the present case, all the prosecution witnesses have been examined during course of trial and the prosecution has relied upon statements of as many as ten prosecution witnesses. After recording of statement of PW-10, the statement of accused Mukesh, Rakesh and Dinesh were recorded on 30.03.2026. When the trial was about to be concluded, an application was moved by the ADGC Criminal on 09.07.2026 with the prayer to summon the applicant and other co-accused who were not chargesheeted by the investigating officer. It was not made clear by the ADGC as to why such an application was not moved after completion of statement of PW-2 Smt. Kamlesh on 30.07.2016. The other witnesses were formal in nature and they did not take name of the applicant as an accused. No application was moved under Section 319 of Cr.P.C./358 of B.N.S.S. for the past eight years. The learned court concerned very surprisingly at the fag end of the trial, allowed the application and summoned the applicant to face criminal trial vide order dated 09.07.2026.

5. It is further submitted by the learned Senior Counsel for the applicant that first informant is not an eye-witness and PW-2 Smt. Kamlesh claimed herself to be witness of the alleged incident, however, their testimonies are not corroborated with medical evidence. It is alleged in the F.I.R. that the deceased was done to death by sharp edged weapon, however, post-mortem report, appended as Annexure No. 3 makes it clear that injuries were caused by blunt weapon. The criminal antecedent of one case of the

applicant has been explained in paragraph no. 40 of the application.

6. It is further submitted that the applicant was exonerated by the Investigating Officer and, prima facie, his complicity in the alleged offence was not found after due investigation. The applicant has been summoned in the present case on the whims of the prosecution. The applicant is ready to face criminal trial. The investigation has already been completed in this matter and no complicity of the applicant in the alleged offence was found. There is no requirement of custodial interrogation of the applicant. Learned counsel for the applicant further submits 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 court, and shall abide by all the conditions that may be imposed by the Court.

7. On the other hand, learned A.G.A. as well as learned counsel for the informant have opposed the application for anticipatory bail. It is further submitted that prosecution case is consistent in respect of involvement of the applicant and other co-accused. The deceased was brutally killed by the applicant and other co-accused who were nominated in the F.I.R. and that the deceased sustained as many as 11 injuries on his person.

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

9. The applicant was nominated in the first information report but no charge-sheet was submitted against him. The complicity of the applicant was not found by the Investigating Officer in the alleged crime. He has been summoned by the learned trial court to face criminal trial by exercising powers under Section 319 Cr.P.C. / 358 BNSS and there is no requirement of custodial interrogation of the applicant. Learned counsel for the informant could not satisfactorily explain regarding the delay in moving the application under Section 319 of Cr.P.C./358 of B.N.S.S.. It was not made clear by him as to why such an application was not moved either by the informant or by the wife of the deceased just after completion of their statements before the trial court. Considering the

submissions made by learned counsel for the parties, this Court is of the view that the applicant has made out a case for grant of anticipatory bail.

10. 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."

11. 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.

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

(i) In the event of arrest/appearance of the applicant- **Ram Babu** involved in aforesaid case shall be released on anticipatory bail till the conclusion of trial, before the competent Court 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.

13. 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 24, 2026

A.P. Pandey