2026:AHC:152245

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. ANTICIPATORY BAIL APPLICATION U/S 482 BNSS No. - 6962 of 2026

Mahabir Prasad Yadav

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite Party(s)

Counsel for Applicant(s)	:	Anjana Devi, Suresh Kumar Maurya
Counsel for Opposite Party(s)	:	Hira Lal, G.A.

Court No. - 72

HON'BLE VIVEK KUMAR SINGH, J.

1. Heard Sri Suresh Kumar Maurya, learned counsel for the applicant, Shri Hira Lal, learned counsel for the informant and 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.77 of 2026, under Sections 87, 137(2), 64(2)(m) of BNS, and Section 5L/6 of POCSO Act, Police Station Baresar, District Ghazipur, 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 FIR was lodged against the applicant on 12.04.2026 in respect of alleged offence committed on 11.04.2026. It is alleged by the first informant that her minor daughter, aged about 17 years, was enticed away by the applicant. The statement of the victim was recorded under Section 180 BNSS, wherein she alleged that she was subjected to rape by the applicant. However, when she produced before the learned magistrate for recording her statement under section 183 BNSS, she stated that no misdeed was committed

upon her by the applicant. It is further submitted that a false statement of the victim was recorded by the police in connivance with the first informant. She narrated a true story when she was produced before the learned magistrate. She did not take name of the applicant in her statement recorded under section 183 BNSS. The criminal history of 7 previous cases have been explained in paragraph 15 of the affidavit. Learned counsel for the applicant further submits that the applicant undertakes 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. On the other hand, learned A.G.A. has opposed the application for anticipatory bail, however, he does not dispute the factual aspect.

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

6. In **Sushila Aggarwal and others vs. State (NCT of Delhi) and another, (2020) 5 SCC 1**, the Hon'ble Apex Court has held that while considering an application for grant of anticipatory 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 including intimidating witnesses, likelihood of fleeing justice, such as leaving the country, etc. It has further been held that 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.

7. In **Siddharth Vs. State of Uttar Pradesh & Another,**

(2022) 1 Supreme Court Cases 676, the Hon'ble Apex Court has held that personal liberty is an important aspect of our constitutional mandate. The occasion to arrest an accused during investigation arises when custodial investigation becomes necessary or it is a heinous crime or where there is a possibility of influencing the witnesses or accused may abscond. Merely because an arrest can be made because it is lawful does not mandate that arrest must be made. A distinction must be made between the existence of the power to arrest and the justification for exercise of it. If arrest is made routine, it can cause incalculable harm to the reputation and self-esteem of a person. If the Investigating Officer has no reason to believe that the accused will abscond or disobey summons and has, in fact, throughout cooperated with the investigation, then there is no compulsion on the officer to arrest the accused.

8. 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, a case for anticipatory bail is made out.

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

(i) In the event of arrest of the applicant- **Mahabir Prasad Yadav,** involved in aforesaid case shall be released on anticipatory bail till the conclusion of trial, on his furnishing a personal bond of Rs.50,000/- with two sureties each of the like amount to the satisfaction of the Station House Officer of the police station or the court concerned;

(ii) The applicant shall co-operate with the Investigating Officer during investigation and shall report to the Investigating Officer as and when required for the purpose of conducting investigation;

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

(iv) The applicant shall not leave India without the previous permission of the Court.

10. 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.

July 23, 2026
Nitendra

(Vivek Kumar Singh,J.)

Digitally signed by :-
NITENDRA TIWARI
High Court of Judicature at Allahabad