



2026:AHC-LKO:19946

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

**CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S 438 CR.P.C.
No. - 165 of 2026**

Murtaza

.....Applicant(s)

Versus

State Of U.P. Thru. Addl. Chief Secy. Home Govt.
Of U.P. Lko.And Others

.....Opposite
Party(s)

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

Court No. - 13

HON'BLE SAURABH LAVANIA, J.

1. Case called out. No one appeared on behalf of the private opposite party No. 2 despite service of notice, as appears from the order sheet. Learned AGA is present in the Court. In these circumstances and also taking note of the order of this Court dated 13.03.2026, which says "*It is made clear that on the next date of listing, the case would not be adjourned on any ground including the illness and an appropriate order would be passed on first call including an order adversarial to the opposite party No. 2*", the Court proceeded in the matter.

2. Heard the learned counsel for the applicant and the learned AGA for the State of U.P., who has filed counter affidavit in the Court today and the same is taken on record, as well as perused the material placed on record.

3. The present anticipatory bail application has been filed by the applicant in relation to Case No.223 of 2023, under Sections- 376 I.P.C and 3/4 of POCSO Act, P.S- Khairighat, District- Bahraich.

4. Vide order dated 24.02.2026, this Court had protected the interest of the applicant. The order dated 24.02.2026, referred, reads as under:-

"(Order on C.M.Application No. Nill of 2026 (Impleadment Application))

1. Heard.

2. Prayer to implead the "*Victim X of Complaint Case No. 223 of 2023 under Section 376 I.P.C and 3/4 of POCSO Act P.S Khairighat, District Bahraich,*" as an opposite party No. 5 during the course of the day, which has not been opposed, is acceded.

3. The prayer made is allowed.

4. Learned Counsel for the applicant is permitted to implead "*Victim X of*

Complaint Case No. 223 of 2023 under Section 376 I.P.C and 3/4 of POCSO Act P.S Khairighat, District Bahraich," as an opposite party no.5 during the course of the day.

(Order on Anticipatory Bail Application)

5. Heard learned counsel for the applicant, learned AGA for the State and perused the record.

6. The present anticipatory bail application has been filed by the applicant in relation to FIR/Case Crime No.223 of 2023 under Sections 376 I.P.C and 3/4 of POCSO Act P.S Khairighat, District Bahraich.

7. For the purposes of entertaining the present application and protecting the interest of the applicant, this Court considered the various aspects of the case as pointed out by the learned counsel for the parties present today, including the following:

(i) The marriage of the prosecutrix/victim was solemnized with Razzab Ali, son of Nizamuddin, who is the younger brother of the applicant, about one year prior to 22.08.2023, i.e., the date on which an application under Section 125 Cr.P.C. was preferred by the prosecutrix/victim, impleading Razzab Ali as opposite party, which application was registered as Case No. 291/11/2023 and was decided on 10.09.2023 by Village Court, Nanpara, Bahraich (in short 'Magistrate').

(ii). As per the case set up in the application preferred by the prosecutrix/victim filed under Section 125 Cr.P.C., she was forced to leave her matrimonial home on 25.07.2023.

(iii) According to the Complaint Case No. 223/2023 (Smt. Sabru Vs. Razzab Ali and others) lodged under Sections 376-D, 323, 504, 506, 452 I.P.C and Section 3/4 of the POCSO Act, Police Station Khairighat, District Bahraich, on 30.08.2023 at about 4:00 PM, the applicant along with his brother (husband of the prosecutrix/victim) had forcibly established physical relations with the prosecutrix/victim at her matrimonial home.

(iv) According to the Complaint Case No. 223/2023 (Smt. Sabru Vs. Razzab Ali and others), the prosecutrix/victim was aged about 16 years of age on the date of the alleged incident. However, in Case No. 291/11/2022, under Section 125(3) Cr.P.C., the prosecutrix/victim was about 23 years old on 22.08.2023.

(iv) The complaint case has been instituted by the mother of the prosecutrix/victim (wife of the applicant's younger brother) with an oblique motive including to settle the matrimonial dispute.

8. Learned counsel for the applicant undertakes that the applicant shall cooperate in the trial.

9. Learned A.G.A. opposed the prayer made by applicant's counsel.

10. Taking note of the aforesaid, this Court finds that the interest of the applicant is liable to be protected.

11. Accordingly, as an interim measure, it is provided that in the event of arrest, the accused-applicant -Murtaza be released forthwith in the aforesaid case crime on anticipatory bail on his furnishing a personal bond of Rs.25,000/- and two sureties in the like amount to the satisfaction of Station House Officer of the Police Station/Court concerned, with the following conditions:-

(i) That the accused-applicant shall make himself available for interrogation by police authorities as and when required and will cooperate with the investigation;

(ii) That the accused-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 or to any police officer; and

(iii) That the accused-applicant shall not leave India without the previous permission of the Court.

12. Issue notice to the opposite party No.2 returnable at an early date. Steps to be taken within three working days.

13. List/put up this case on 13.03.2026 in top 20 cases along with service report.

14. Learned AGA is also directed to file an affidavit in response to instant application annexing there with the proof of information given to the private opposite party No. 2 by the S.H.O. concerned when the case is listed next."

5. The learned counsel appearing for the prosecution could not demonstrate from the record that there is any adversarial fact which are pleaded in the bail application. This Court finds that the applicant was enlarged on anticipatory bail after considering the merits of the case. The learned counsel for the prosecution also could not point out any fact based upon which it can be inferred that the applicant has not cooperated with the investigation proceedings or otherwise any glaring fact which can adversely affect the merit of the case.

6. In view of the aforesaid, the present anticipatory bail application is hereby **allowed** while extending anticipatory bail to the applicant- **Murtaza** till disposal of the trial subject to the following conditions:-

(i) that the applicant shall make himself available for interrogation by a police officer as and when required;

(ii) that 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 or tamper with the evidence;

(iii) that the applicant shall not leave India without the previous permission of the court;

(iv) that the applicant shall appear before the trial court on each date fixed, unless personal presence is exempted; and

(v) that the applicant shall not pressurize/intimidate the prosecution witness.

7. In case of default, it would be open for the Investigating Agency to move application for vacation of this order.

(Saurabh Lavania,J.)

March 18, 2026

Arun/-