



2026:AHC-LKO:19205

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

APPLICATION U/S 482 No. - 2296 of 2026

Ashok Shukla

.....Applicant(s)

Versus

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

.....Opposite
Party(s)

Counsel for Applicant(s) : Amol Kumar Srivastava, Shivanshu Mishra
Counsel for Opposite Party(s) : G.A.

Court No. - 16

HON'BLE BRIJ RAJ SINGH, J.

1. Heard Sri Amol Kumar Srivastava, learned counsel for the applicant as also the learned A.F.A. for the State and perused the record.

2. The applicant has filed this application with the following main prayer:

"... this Hon'ble Court may be pleased to to direct the Learned Addl. Chief Judicial Magistrate VIII, Lucknow, to kept in abeyance the Non-Bailable Warrant dated 22.05.2012, passed in Complaint Case no. 142 of 2010, titled as "Ashok Kumar Awasthi V/s Manager, MAGMA FINCORP Ltd. & Other", under section 392, 420, 323, 504, 506 IPC, P.S.-Madiyaon, Lucknow till the disposal of the discharge application dated 29.11.2019, which has been tendered in pursuant to the orders passed by this Hon'ble Court in 482 Cr PC Application No. 1575 of 2013, titled as "Ashok Shukla Vs. Staate of U.P. & Anr", dated 27.09.2019, annexed as ANNEXURE No. 2, to the application."

3. It has been submitted by learned counsel for the applicant that the applicant had challenged the proceedings of Complaint Case No. 142 of 2010, Ashok Kumar Awasthi v. Manager, Magma Fincorp Ltd. & ors., pending in the court of the Judicial Magistrate II, Lucknow, and the summoning order dated 01.07.2011 as well as the order dated 22.05.2012

by means of which non-bailable warrant was issued, in Application No. 1575 of 2013. The said case was disposed of vide order dated 27.09.2019 with the observations quoted below:

"3. After arguing at some length, learned counsel for the petitioner submits that he would like to file an application for discharge under the provisions of the Cr.P.C. to which learned counsel for the State does not dispute.

4. Accordingly, the petitioner is granted liberty to file an application before the trial Court concerned in conformity with the provisions of Cr.P.C. within a period of fifteen days from today, which shall be considered and decided by the trial Court expeditiously, preferably within next forty-five days. The petitioner is also granted liberty to appear through counsel.

5. Till expiry of aforesaid period of sixty days, no coercive steps shall be taken against the petitioner.

6. With the aforesaid observations/directions, the petition stands disposed of."

4. The learned counsel has further submitted that the petitioner is suffering from Cancer, hence he could not file the discharge application within the time provided therefor, however, he filled the same on 29.11.2019, which has not been decided, therefore, the direction may be issued to decide discharge application of the petitioner and till then operation of the Non-bailable issued against the applicant be stayed.

5. Learned A.G.A. has submitted that the order passed by the trial court is correct. The application is avoiding proceeding of the trial court. If he could not file the application for discharge within the time granted by the Hon'ble Court, at least he should have filed the application for extension of time, but he did not do so.

6. After hearing learned counsel for the petitioner and perusing the record, it is evident that the earlier application No. 1575 of 2013 was disposed of with a direction that within 15 days the petitioner will prefer application

of discharge and for the period of 60 days no coercive action shall be taken against the petitioner.

7. It is further relevant to be noted that the entire ordersheet has been filed by the petitioner and the ordersheet indicates that on 31.08.2021 the petitioner has filed the discharge application, i.e. much belated by more than two years. Even if the oral statement of learned counsel for the applicant regarding submission of the discharge application is accepted, though no such averment is made on the affidavit, even then the same was filed on 29.11.2019, in utter violation of the court's order dated 27.09.2019. The applicant is clearly avoiding the proceedings of the court below and he even did not file the application for extension of time to move discharge application and he violated the order dated 27.09.2019. Even if his oral submission is accepted, then the application was filed by the petitioner beyond the time stipulated by the High Court in the order dated 27.09.2019. Having no merit in the case, this application is **dismissed**.

(Brij Raj Singh,J.)

March 17, 2026

A.Nigam