



2026:AHC:53542

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. ANTICIPATORY BAIL APPLICATION U/S 482 BNSS No.
- 2501 of 2026

Shiv Babu Pathak

.....Applicant(s)

Versus

State of U.P.

.....Opposite
Party(s)

Counsel for Applicant(s) : Shivam Singh, Srijan Mehrotra, Sr.
Advocate

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

Court No. - 71

HON'BLE RAJIV LOCHAN SHUKLA, J.

1. Heard, Sri Anil Mehrotra, Learned Senior Advocate for the applicant, the Learned A.G.A. for the State and perused the material brought on the record.

2. This application has been filed by the applicant to enlarge him on anticipatory bail in Case Crime No.0423 of 2025, under Sections 64, 74, 352, 351(2) and 351(3) B.N.S., 2023, Police Station- Ankur Vihar, District- Ghaziabad.

3. Learned Senior Advocate appearing for the applicant submits that the applicant has been falsely implicated in the present case. The applicant seeks anticipatory bail on the following grounds:-

(i) The applicant has been implicated in the case due to the dispute between the applicant and the informant.

(ii) The First Information Report was initially lodged under Sections 74, 352, 351(2), 351(3) of the B.N.S., 2023, however, during investigation the prosecution case was improved and allegations of rape were also leveled against the applicant.

(iii) The applicant had filed a writ petition being **Criminal Misc. Writ Petition No.1735 of 2026 (Shiv Babu Pathak and Another Vs. The State of U.P. and 3 Others)**, whereby this Court finding that all the offences were

punishable with a term up to seven years, vide its order dated 29.01.2026, directed the respondents therein to ensure the compliance of the provisions of Section 35 of the B.N.S.S., 2023 and guidelines given in various judgments of the Supreme Court.

(iv) The introduction of allegation of rape is only to defeat the interim order that has been passed in favour of the applicant in the above-mentioned writ petition.

(v) The applicant has a criminal history of five cases and in four of the cases, the applicant has either been acquitted or the proceedings have been quashed by the Court and in one case being Case Crime No.373/2024, under Section 329(3) B.N.S., 2023, the applicant has been granted the benefit of Section 35 of the B.N.S.S., 2023 vide order dated 26.05.2025 passed in **Criminal Misc. Writ Petition No.10669 of 2025 (Shiv Babu Pathak Vs. State of U.P. and 3 Others)**.

4. The Learned A.G.A. has opposed the prayer for grant of anticipatory bail and has contended that the applicant is the primary accused in the case. The applicant has committed rape upon the victim and in her statements, she has clearly leveled allegation of rape against the applicant. The applicant has a criminal history of five cases. The Learned A.G.A., however, does not deny the explanation given by the applicant with respect to his criminal antecedents.

5. The Learned A.G.A. has objected to the maintainability of this application by citing that the writ petition is pending consideration of this Court. However, the Learned Senior Counsel for the applicant states that the said writ petition has been not pressed.

6. In view of the statement so made by the Learned Senior Counsel regarding the dismissal of the writ petition, in the opinion of the Court, right to seek anticipatory bail of the applicant is not curtailed. The objection of the Learned A.G.A. is overruled.

7. I have considered the submissions made by the Learned counsels for the parties and perused the material brought on the record.

8. The First Information Report was lodged for the offences under Sections 74, 352, 351(2), 351(3) of the B.N.S., 2023. The first informant is stated to be a major lady aged about 42 years. The First Information Report has been lodged on 23.11.2025 and no date of the occurrence is mentioned therein. There appears to be a monetary dispute between the parties as is reflected from the statement of the victim recorded under Section 183 B.N.S.S., 2023. The applicant has also lodged a First Information Report being Case Crime No.34 of 2026, under Sections 308(2), 351(2), 351(3) B.N.S. against the informant and others. The entire facts and circumstances as stated above, indicate a monetary dispute and *prima facie*, it appears that the allegations of rape have been leveled only to increase the gravity of the offence.

9. Taking into consideration all the facts and circumstances of the case as discussed above and without expressing any opinion on the merits of the case, I deem it appropriate to enlarge the applicant on anticipatory bail.

10. In view of the above, the anticipatory bail application of the applicant is allowed.

11. In the event of the arrest of the **applicant- Shiv Babu Pathak**, he shall be released forthwith in the aforesaid case crime on anticipatory bail on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the Station House Officer of the police station/Court concerned with the following conditions:-

- i. 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 from disclosing such facts to the Court or to any police officer;
- iii. that the applicant shall not leave India without the previous permission of the Court;
- iv. that the applicant shall not pressurize/intimidate the prosecution

witness;

12. In case of breach of any of the above conditions, the Court concerned shall be at liberty to cancel the bail.

13. It is made clear that observations made hereinabove are exclusively for deciding the instant anticipatory bail application and are not to be considered to be an opinion on the merits of the case.

(Rajiv Lochan Shukla,J.)

March 17, 2026

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