



2026:AHC:66099

HIGH COURT OF JUDICATURE AT ALLAHABAD
CRIMINAL MISC. ANTICIPATORY BAIL APPLICATION U/S 482
BNSS No. - 3047 of 2026

Rais

.....Applicant(s)

Versus

State of U.P.

.....Opposite
Party(s)

Counsel for Applicant(s)	:	Mohd Hamid
Counsel for Opposite Party(s)	:	G.A. Nafees Ahmad

Court No. - 72

HON'BLE RAJIV LOCHAN SHUKLA, J.

1. Heard Sri Sudhir Kumar Agarwal, the Learned counsel for the applicant, Sri Nafees Ahmad, the Learned counsel for the informant, Sri G.P. Singh, the Learned A.G.A. for the State and perused the record.

2. This application for anticipatory bail has been filed by the applicant with a prayer to enlarge him on anticipatory bail in Case Crime No.108 of 2025, under Section 103(1) of the B.N.S., Police Station- Deoband, District- Saharanpur, as the applicant apprehends his arrest in the above mentioned case.

3. The Learned counsel for the applicant has contended that the applicant is innocent. He contends that the deceased received a single lacerated wound on his head, which later on led to his death. The applicant was earlier arrested and was granted bail by this Court vide its order dated 27.6.2025 passed in Criminal Misc. Bail Application No.16938 of 2025 (Rahees Vs. State of U.P.) and is not said to have violated the terms and conditions of bail. The applicant is said to have no criminal antecedents.

4. Sri Nafees Ahmad, the Learned counsel for the informant, on the other hand, contends that a young boy aged about 22 years was brutally assaulted and after four months of the assault while he remained in coma, he unfortunately died. The Learned counsel for the informant further contends that the applicant is one of the named accused in the present case, who has also been identified in the CCTV footage wielding a stick. The injuries that have been received by the applicant also attest to his presence on the spot

and being present on the spot and a part of the unlawful assembly which assaulted the deceased, hence no indulgence may be granted to him.

5. The Learned A.G.A. has also adopted the submissions made by the Learned counsel for the informant.

6. I have considered the submissions made by the Learned counsels for the parties.

7. This Court vide order dated 27.06.2025 in **Criminal Misc. Bail Application No.16938 of 2025 (Rahees vs. State of U.P.)** granted regular bail to the applicant, Rahees. For ready reference, the order granting bail to the applicant is being quoted hereinbelow:-

"Heard learned counsel for the applicant, learned counsel for the informant and learned A.G.A. for the State and perused the material on record.

The instant bail application has been filed on behalf of the applicant, Rahees with a prayer to release him on bail in Case Crime No. 108 of 2025, under Sections 191(2), 352, 115(2), 131, 109(1), 333 B.N.S., Police Station- Deoband, District- Saharanpur during pendency of trial.

Learned counsel for the applicant has contended that the co-accused, namely, Mahatab has been granted bail by this Court on 25.06.2025 in Criminal Misc. Bail Application No. 21797 of 2025. The case of the applicant stands on identical footing, hence the applicant is also entitled for bail on the ground of parity for the reasons given in bail application of co-accused. The applicant is languishing in jail since 08.04.2025.

Learned AGA has opposed the prayer for bail, but does not dispute the claim of parity.

Let the applicant involved in aforesaid case be released on bail on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned with the following conditions which are being imposed in the interest of justice:-

(i) The applicant shall not tamper with the evidence or threaten the witnesses.

(ii) The applicant shall file an undertaking to the effect that he shall not seek any adjournment on the dates fixed for evidence when the witnesses are present in Court. In case of default of this condition, it shall be open for the Trial Court to treat it as abuse of liberty of bail and pass orders in

accordance with law.

(iii) The applicant shall remain present before the Trial Court on each date fixed, either personally or as directed by the Court. In case of his absence, without sufficient cause, the Trial Court may proceed against him under Section 229-A of the Indian Penal Code.

(iv) In case the applicant misuse the liberty of bail during trial and in order to secure his presence, proclamation under Section 82 Cr.P.C. is issued and the applicants fail to appear before the Court on the date fixed in such proclamation then the Trial Court shall initiate proceedings against him in accordance with law under Section 174-A of the Indian Penal Code.

(v) The applicant shall remain present in person before the Trial Court on the dates fixed for (i) opening of the case, (ii) framing of charge and (iii) recording of statement under Section 313 Cr.P.C. If in the opinion of the Trial Court absence of the applicant is deliberate or without sufficient cause, then it shall be open for the Trial Court to treat such default as abuse of liberty of bail and proceed against him in accordance with law.

In case of breach of any of the above conditions, it shall be a ground for cancellation of bail.

Identity and residence proof of the applicant and sureties be verified by the court concerned before the bonds are accepted. "

8. The other accused, Mahtab, Shabaj, Anzar and Farman have also been granted bail by this Court vide its orders dated 25.6.2025, 16.7.2025 and 22.07.2025 passed in Criminal Misc. Bail Application No.21797 of 2025 (Mahatab Vs. State of U.P.), Criminal Misc. Bail Application No.21867 of 2015 (Shahbaz Vs. State of U.P.) and Criminal Misc. Bail Application No.13544 of 2025 (Anjar and Another vs. State of U.P.), respectively. After the grant of bail to the applicant and the other co-accused, the injured of the case died after prolonged treatment. This led to the case being converted to one under Section 103(1) of the B.N.S., 2023. There is no allegation of the applicant abusing the liberty of bail granted to him by the previous order. The applicant has already suffered incarceration in prison. The applicant has been granted bail under Section 109(1) BNS, 2023, which entails a maximum punishment of life and is triable by the Court of Sessions. The addition of a new Section, after the death of the deceased, which took place after about four months of the incident, has led the filing of this anticipatory

bail. As observed above, the applicant has not violated the terms and conditions of the bail granted to him and on the addition of this new offence, refusing to grant anticipatory bail to the applicant, would be unjustified.

9. In such circumstances, taking note of the fact that the applicant was already on bail, I deem it appropriate to enlarge the applicant on anticipatory bail in the added Section.

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- **Rais**, 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. 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. The applicant shall not leave India without the previous permission of the Court;
- iv. 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.

March 30, 2026
Kushal

(Rajiv Lochan Shukla,J.)