



2026:AHC:14279

A.F.R.

HIGH COURT OF JUDICATURE AT ALLAHABAD

**CRIMINAL MISC. ANTICIPATORY BAIL CANCELLATION APPLICATION
No. - 109 of 2025**

Piyush Verma

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite
Party(s)

Counsel for Applicant(s) : Chandra Dutt, Pradeep
Verma
Counsel for Opposite Party(s): Ali Jamal Khan, G.A.

Court No. - 71

HON'BLE NALIN KUMAR SRIVASTAVA, J.

1. The application in hand has been moved on behalf of the applicant - **Piyush Verma** seeking cancellation of anticipatory bail granted to the accused / opposite party no.2 in Complaint Case No. 115562 of 2023, under Sections 406, 120-B IPC, Police Station Bhelupur, District Varanasi vide order dated 31.5.2025 passed by the Additional Sessions Judge, Varanasi.

2. Heard Shri Pradeep Verma, learned counsel for the applicant, Shri N.I. Jafri, learned Senior Advocate assisted by Shri Ali Jamal Khan, learned counsel for the opposite party no.2 as well as the learned A.G.A. for the State and perused the record.

3. The facts giving rise to the present application for cancellation of anticipatory bail to the accused / opposite party no.2 are that the applicant had filed a Complaint Case No. 115562 of 2023 against Smt. Pooja Grover and her husband Umang Grover for the offences under Sections 420, 406, 120-B IPC before the Court concerned and after recording the statements of complainant and the witnesses under Sections 200 and 202 CrPC, the Court concerned passed an order dated 4.11.2023 summoning the aforesaid accused persons to face trial for

the offence under Sections 420, 406 and 120-B IPC which was challenged before this Court by way of Application U/S 482 No. 20040 of 2024 and this Court vide order dated 13.12.2024 disposed of the said application and the said summoning order was set-aside and the matter was remitted back to the Court concerned to pass order on the point of summoning afresh, expeditiously in accordance with law. Subsequently, the trial Court passed an order dated 24.2.2025 summoning both the accused persons to face trial for the offences under Sections 406 and 120-B IPC. In pursuance of the said order the opposite party no.2 moved an application seeking anticipatory bail before the trial Court, which was allowed. Feeling aggrieved with the subsequent conduct of the accused / opposite party no.2 causing misuse of the order granting anticipatory bail, the present application for cancellation of anticipatory bail has been moved.

4. It has been submitted by the learned counsel for the applicant that there are credible evidence against the accused / opposite party no.2 on record. Specific allegations have been levelled against the opposite party no.2 in the complaint and also in the statements recorded under Sections 200 and 202 CrPC. It is also submitted that one of the conditions for granting anticipatory bail to the opposite party no.2 was that she will fully cooperate with the trial of this case and no unnecessary adjournment shall be sought by her.

5. It is also submitted that after grant of anticipatory bail in favour of the accused / opposite party no.2 she is not cooperating with the trial of this case and on two successive occasions adjournment applications were moved by her, hence, she is violating the condition for anticipatory bail granted to her by the Court concerned. Therefore, the anticipatory bail granted to the accused / opposite party no.2 is liable to be cancelled and the impugned order is liable to be quashed.

6. On the other hand, learned Senior Advocate appearing for the accused / opposite party no.2 opposed the prayer for cancellation of anticipatory bail and submitted that the case has not been fixed for evidence so far and two

dates on which the adjournment applications are said to be moved were not fixed for evidence. It is also submitted that on the said dates exemption applications were moved and not adjournment applications. It is further submitted that the accused / opposite party no.2 is ready and willing to fully cooperate with the trial court and she is in fact cooperating with the trial Court and the judicial proceedings have not been hampered on account of her alleged non-cooperation so far.

7. It is further urged that the case was not fixed for evidence on the date when the exemption application was moved. It is further submitted that even the evidence may be recorded in the absence of the accused and the accused / opposite party no.2 will have no objection. Since the accused / opposite party no.2 has already appeared before the Court, her personal appearance could be exempted by the trial court and moreover it is a complaint case. He also undertakes that the accused is always ready and willing to participate into the proceedings of the case before the Court and if any exemption is granted by the Court to her, her non-appearance before the trial court shall not come in the proceedings of the trial, as she would be present before the Court through counsel. There is no infirmity or illegality in the impugned order warranting interference by this Court. In support of his submissions with regard to dispense with the presence of the accused / opposite party no.2 before the Court, learned Senior Advocate appearing for the accused / opposite party no.2 has placed reliance upon the decisions of the Hon'ble Apex Court in **Bhaskar Industries Ltd. Vs. Bhiwani Denim @ Apparels Ltd., (2001) 7 SCC 401** and **Rameshwar Yadav vs. State of Bihar, (2018) 4 SCC 608**.

8. I have considered the rival submissions made by the learned counsel for the parties and have gone through the entire record carefully.

9. Before dealing with the matter, it is desirable to quote the provisions of Sections 205 CrPC and 317 CrPC relevant in order to disposal of the case in hand, which are as under :

"205. Magistrate may dispense with personal attendance of

accused.

(1) Whenever a Magistrate issues a summons, he may, if he sees reason so to do, dispense with the personal attendance of the accused and permit him to appear by his pleader.

(2) But the Magistrate inquiring into or trying the case, may, in his discretion, at any stage of the proceedings, direct the personal attendance of the accused, and, if necessary, enforce such attendance in the manner hereinbefore provided."

"317. Provision for inquiries and trial being held in the absence of accused in certain cases.

(1) At any stage of an inquiry or trial under this Code, if the Judge or Magistrate is satisfied, for reasons to be recorded, that the personal attendance of the accused before the Court is not necessary in the interests of justice, or that the accused persistently disturbs the proceedings in Court, the Judge or Magistrate may, if the accused is represented by a pleader, dispense with his attendance and proceed with such inquiry or trial in his absence, and may, at any subsequent stage of the proceedings, direct the personal attendance of such accused.

(2) If the accused in any such case is not represented by a pleader, or if the Judge or Magistrate considers his personal attendance necessary, he may, if he thinks fit and for reasons to be recorded by him, either adjourn such inquiry or trial, or order that the case of such accused be taken up or tried separately."

10. While granting anticipatory bail to the accused / opposite party no.2, the Court concerned vide order dated 31.5.2025 imposed following conditions :

- "1. अभियुक्ता विचारण में पूर्ण सहयोग करेगी तथा अनावश्यक स्थगन प्रस्तुत नहीं करेगी।
2. अभियुक्ता किसी भी व्यक्ति जो इस मामले के तथ्यों से परिचित हो को किसी प्रकार का प्रलोभन नहीं देगी और न ही किसी प्रकार से पताड़ित करेगी, धमकायेगी।
3. अभियुक्ता भविष्य में यदि किसी अन्य आपराधिक गतिविधि में सम्मिलित होती है तो यह उसके अग्रिम

जमानत के निरस्तीकरण का पर्याप्त आधार होगा।

4. अभियुक्ता अग्रिम जमानत पर रहने की अवधि में भारत देश से बाहर नहीं जायेगी।"

11. This is the first condition for alleged wilful violation of which the present application for cancellation of anticipatory bail has been moved.

12. An application to dispense with the personal attendance of an accused is only meant that for certain reasons the accused is not present before the Court but on his /her behalf his/her counsel is present over there to attend the Court and to participate in the proceedings taken before the Court on a particular date but it never means that by way of an exemption application the accused wants to adjourn the proceedings of the case on the pretext of his personal absence for certain reasons. On the other hand, an adjournment application is meant to postpone the proceedings of the case on a particular day on a temporary basis for some other day on any ground taken by the accused in the said application. Hence, whenever an adjournment application is moved by the accused there is no iota of doubt that on a particular day the accused is not willing and ready, whatsoever be the reasons thereof, to participate in the proceedings of the case on a particular day and such conduct of the accused can be taken by the Court as an attempt to prolong the proceedings of the case on some pretext. Since to participate in the proceedings of a trial on the part of an accused is a binding condition for bail, the accused, who has got bail from a Court on the aforesaid condition, cannot be permitted to get the proceedings of the case adjourned on a particular day only at his own will. However, on sufficient and satisfactory ground an adjournment application may be allowed by the Court but at the same time it provides a chance to the prosecution to question the conduct of the accused to get the case adjourned. The Court ought to have been strict in its view and approach to hold that repeated adjournment applications are moved with the object only to get the trial delayed and that certainly amounts to an infringement and violation of the conditions imposed upon him while providing him opportunity of bail. On the other

hand, however, if the personal presence of an accused is required in view of the Court before it e.g. at the stage of evidence where question of identification in dock is required the application to dispense with personal attendance of the accused before the Court may be rejected as well but so far as the case in hand is concerned, as submitted by the learned Senior Advocate appearing for the accused / opposite party no.2, the case was not fixed for evidence on the date when exemption application was moved. The reason for absence of the accused / opposite party no.2 has been mentioned in the exemption application which shows that the exemption was sought for on the ground that accused / opposite party no.2 alongwith her husband, who is also an accused in this case, was out-of-station and that was the reason for her absence before the Court on the date fixed. The submissions made by the accused / opposite party no.2 finds strength from the law laid down by the Hon'ble Apex Court in the cases of **Bhaskar Industries Ltd.** (supra) and **Rameshwar Yadav** (supra).

13. In **Bhaskar Industries Ltd. case** (supra) the issue before the Hon'ble Apex Court was as to whether the application for exemption from personal attendance moved by the accused could be treated as one moved under Section 205 CrPC or under Section 317 CrPC. The High Court in that case had observed that the accused had already appeared before the Court after obtaining the order of pre arrest bail and furnishing bond and sureties to the satisfaction of the Court, he was not entitled to file an application under Section 205 CrPC at subsequent stage after appearing before the Court. However, the Hon'ble Apex Court found that the said observation was factually incorrect. The power of Magistrate under Section 317 CrPC was also discussed by the Hon'ble Apex Court in connection with the discretion of Court to exempt a person from personal appearance and in crux it was concluded that there is no impediment on the power of the Magistrate to consider the application of an accused for his exemption from personal appearance.

14. Same view has been expressed by the Hon'ble Supreme Court later in the case of **Rameshwar Yadav** (supra).

15. In fact seeking temporary suspension or postponement of a legal proceeding on a particular date by way of filing an adjournment application and thereby to make a request for a later date by way of filing an adjournment application is different from that of an application seeking exemption from personal appearance for any valid reason like distance or illness etc. and in that way the party seeks an exemption from any obligation in a legal manner. Here lies the difference between an adjournment application and an exemption application and the exemption application is not meant to avoid the legal proceedings to be taken on a particular date, time or location.

16. From a perusal of the application dated 10.11.2025, which is annexed with the supplementary affidavit, it is evident that it is not an adjournment application but it is simply an application for exemption from appearance before the Court moved by accused / opposite party no.2. As mentioned above, there is a huge difference between an application for exemption of appearance and adjournment of proceedings. It appears that the applicant has been unable to understand the said difference.

17. In view of the aforesaid discussions, in my view, there is no force in the submissions advanced by the learned counsel for the applicant. There is no good ground to cancel the anticipatory bail granted to the accused / opposite party no.2 as no violation of any of the conditions imposed while granting anticipatory bail by the court to the accused has been made by her. The application is liable to be rejected and the same is accordingly **rejected**.

18. Before parting, it would be apt to note that the Court often comes across the cases where it appears that although nature, scope and object of an application seeking exemption of the personal attendance of an accused on a particular date is different from that of an application to adjourn the proceedings but the Presiding Officers often get confused and an exemption application is treated as an adjournment application by them which is not the correct notion of law. Hence, to remind them of

the real nature and object of the application of both kinds, the Registrar General of this Court is directed to circulate copy of this judgment to all District and Sessions Judges, Principal Judges of Family Courts, and Presiding Officers of Commercial Courts and further to all the Judicial Officers of the State of Uttar Pradesh for information and compliance.

19. This Court is thankful to Shri Pradeep Verma, learned counsel for the applicant, Shri N.I. Jafri, learned Senior Advocate assisted by Shri Ali Jamal Khan, learned counsel for the opposite party no.2 and Sri Nitesh Srivastava, learned A.G.A. for the State and Mr. Akash Verma, Research Associate of this Court for ably assisting the Court.

January 20, 2026
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(Nalin Kumar Srivastava, J.)