2026:AHC:212049

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. ANTICIPATORY BAIL APPLICATION U/S 482 BNSS No. - 9979 of 2026

Mukesh @ Lokesh Kumar And 4 Others

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite Party(s)

Counsel for Applicant(s) : Manisha Singh, Pankaj Kumar Mishra
Counsel for Opposite Party(s) : G.A.

Court No. - 71

HON'BLE VIVEK KUMAR SINGH, J.

1. Heard learned counsel for the applicants and learned A.G.A for the State and perused the record.

2. The present application has been filed on behalf of the applicants in Case Crime No. 78 of 2024, under Sections 147, 148, 149, 323, 354Kha, 352, 307, 506, 120-B IPC, Police Station Harduaganj, District Aligarh with a prayer to grant them anticipatory bail.

3. Learned counsel for the applicants submits that the applicants are absolutely innocent and have been falsely implicated in the present case. They have nothing to do with the alleged offence in spite of that the police are trying to arrest the applicants. A total of 11 persons including the present applicants have been nominated in the first information report. As per the allegations contained in the first information report, injuries were caused to Ajay @ Ajeet and Rohan, however, Rohan was never medically examined. As per the injury report, of the injured Ajay @ Ajeet, he sustained only two injuries on his person, which are simple in nature. It is further submitted that the alleged incident is said to have taken place on 11.2.2024, whereas the first information report report was lodged after a long delay of three days on 14.2.2024. The delay in lodging the first information report has not been satisfactorily explained by the prosecution. The applicants were not arrested during the course of investigation in view of the order passed by a Division Bench of this Court on 21.3.2024 in Criminal Misc. Writ Petition No. 4469 of 2024. Now, the charge-sheet has been submitted on 11.12.2024, whereon

the court concerned has taken cognizance of offence. It is further submitted that one first information report was lodged from the side of the applicants' on the same day i.e. 11.2.2024. It is further submitted that since the applicants were not arrested during the course of investigation and had cooperated in the investigation, therefore, there is no requirement of custodial interrogation of the applicants. The criminal antecedents of three cases of the applicant nos. 1 and 2 and four cases of the applicant nos. 4 and 5 have been explained in the supplementary affidavit. The applicant no. 3 has no criminal antecedent to his credit. The applicants are are previous convict. Learned counsel for the applicants further submits that the applicants undertakes to cooperate during investigation and trial and shall appear as and when required by the Investigating Agency or the Court concerned. It has also been stated that, in case the applicants are granted anticipatory bail, they shall not misuse the liberty of bail, shall cooperate with the investigation, and shall abide by all the conditions that may be imposed by the Court.

4. On the other hand, learned A.G.A. has opposed the application for anticipatory bail, however, he does not dispute the factual aspect.

5. I have heard the rival submissions of both sides and perused the record.

6. In **Aman Preet Singh v. CBI, (2022) 13 SCC 764,** the Hon'ble Apex Court has held that :

> *"11. A reading of the aforesaid shows that it is the guiding principle for a Magistrate while exercising powers under Section 170CrPC which had been set out. The Magistrate or the Court empowered to take cognizance or try the accused has to accept the charge-sheet forthwith and proceed in accordance with the procedure laid down under Section 173CrPC. It has been rightly observed that in such a case the Magistrate or the Court is required to invariably issue a process of summons and not warrant of arrest. In case he seeks to exercise the discretion of issuing warrants of arrest, he is required to record the reasons as contemplated under Section 87 Cr.P.C that the accused has either been absconding or shall not obey the summons or has refused to appear despite proof of due service of summons upon him. In fact the observations in sub-para (iii) above by the High Court are in the nature of caution.*

> *12. In sofar as the present case is concerned and the general principles under Section 170Cr.P.C, the most apposite observations are in sub-para (v) of the High Court judgment in the context of an accused in a non-bailable offence whose custody was not required during the period of investigation. In such a scenario, it is appropriate that the accused is released on bail as the circumstances of his having not been arrested during investigation or not being produced in custody are itself sufficient to entitle him to be released on bail. The rationale has been succinctly set out that if a person has been enlarged and free for many years and has not even been arrested during investigation, to suddenly direct his arrest and to be incarcerated merely because charge-sheet has been filed would be contrary to the governing principles for grant of bail. We could not agree more with this."*

7. Considering the settled principle of law regarding anticipatory bail, submissions of the learned counsel for the parties, nature of accusation, role of applicant and all attending facts and circumstances of the case, without expressing any opinion on merits, and the case of the applicants is squarely covered by the aforesaid judgments, a case for anticipatory bail is made out.

8. Accordingly, the anticipatory bail application is **allowed** with following directions:-

(i) In the event of arrest/appearance of the applicants-**Mukesh @ Lokesh Kumar, Devraj Singh, Monu @ Rishi Kumar, Sandeep** and **Pradeep** involved in aforesaid case shall be released on anticipatory bail till the conclusion of trial, before the competent Court on their furnishing a personal bond of Rs.50,000/- with two sureties each of the like amount to the satisfaction of the court concerned;

(ii) The applicants shall co-operate during trial and shall report to the court concerned as and when required for the purpose of fair trial.

(iii) The applicants 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 them from disclosing such facts to the Court; and

(iv) The applicants shall not leave India without the previous permission of the Court.

9. In default or misuse of any of the conditions, the Public Prosecutor/ Investigating Officer/ first informant-complainant is at liberty to file appropriate application for cancellation of anticipatory bail granted to the applicants, before the concerned court.

(Vivek Kumar Singh,J.)

October 9, 2026
Lalit Shukla

Digitally signed by :-
LALIT KUMAR SHUKLA
High Court of Judicature at Allahabad