2026:AHC:212407

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. ANTICIPATORY BAIL APPLICATION U/S 482 BNSS No. - 10312 of 2026

Mohd. Islam

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite Party(s)

Counsel for Applicant(s) : Dharmendra Kumar, Rahul Srivastava
Counsel for Opposite Party(s) : G.A.

Court No. - 71

HON'BLE VIVEK KUMAR SINGH, J.

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

2. The present application has been filed on behalf of the applicant in Case Crime No. 130 of 2023, under Sections 420, 406, 504, 506, 120B IPC, Police Station Loni, District Ghaziabad with a prayer to grant him anticipatory bail.

3. Learned counsel for the applicant submits that the applicant is absolutely innocent and has been falsely implicated in the present case. He has nothing to do with the alleged offence in spite of that the police are trying to arrest the applicant. The alleged incident is said to have taken place between 17.1.2018 and 25.9.2022, whereas the first information report was lodged after a long delay on 4.2.2023. The first information report was lodged through an application under Section 156(3) Cr.P.C. It has been alleged in the first information report that the co-accused Sri Krishna Kumar Sharma, Bank Manager of Punjab National Bank granted loan to the applicant and the other co-accused on the basis of documents of the informant. A notice for recovery of money has already been issued by the bank. The Bank Manager, namely, Sri Krishan Kumar Sharma has already been enlarged on anticipatory bail by a co-ordinate Bench of this Court vide order dated 25.5.2026 in Criminal Misc. Anticipatory Bail Application u/s 482 BNSS No. 5080 of 2026. It is further submitted that all the offences are punishable below seven years of imprisonment, therefore, the applicant was not arrested

by the police during the course of investigation. Now, the charge-sheet has been submitted in the court concerned on 19.9.2023. The learned court concerned has taken cognizance of the offence vide order dated 16.12.2023 and no coercive process has been issued by the court concerned against the applicant. Since the applicant was not arrested during the course of investigation, therefore, there is no requirement of custodial interrogation of the applicant. The applicant has no criminal antecedent to his credit. Learned counsel for the applicant lastly contended that the applicant undertakes to cooperate during trial and shall appear as and when required by the court concerned. It has also been stated that, in case the applicant is granted anticipatory bail, he shall not misuse the liberty of bail, shall cooperate with the trial, 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 applicant 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 applicant- **Mohd. Islam,** involved in the aforesaid case, he shall be released on anticipatory bail till the conclusion of trial, before the competent Court on his 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 applicant shall co-operate during trial and shall report to the court concerned as and when required for the purpose of fair trial.

(iii) 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; and

(iv) The applicant 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

applicant, before the concerned court.

(Vivek Kumar Singh,J.)

October 9, 2026
Radhika

Digitally signed by :-
RADHIKA VISHWAKARMA
High Court of Judicature at Allahabad