2026:AHC:212526

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. ANTICIPATORY BAIL APPLICATION U/S 482 BNSS No. - 10273 of 2026

Yogesh And Another

.....Applicant(s)

Versus

State Of U.P. And 3 Others

.....Opposite Party(s)

Counsel for Applicant(s)	:	G.A., Ravi Kumar
Counsel for Opposite Party(s)	:	G.A.

Court No. - 71

HON'BLE VIVEK KUMAR SINGH, J.

1. Based on instructions, learned A.G.A. submits that notice upon the informant/opposite party no. 2, has been duly served. Despite service of notice, no one has appeared in this matter on behalf of first informant/opposite party no. 2.

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

3. The present application has been filed on behalf of the applicants in Case Crime No. 161 of 2023, under Sections 376D of I.P.C. and Section 5/6 of POCSO Act, Police Station - Junawai, District Sambhal, with a prayer to grant them anticipatory bail.

4. 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. It is further submitted that the F.I.R. dated 08.05.2023, was lodged against co-accused Jitendra only. It is further submitted that when victim was recovered during course of investigation and her statement under Section 161 of Cr.P.C. was recorded, she stated that co-accused Jitendra and the victim have solemnized marriage in Delhi on 07.05.2023 and they are living together as husband and wife. The names of the applicants were not taken by the victim. When statement of the victim was recorded under Section 164 of

Cr.P.C., she did not take name of the applicant no. 1, Yogesh. So far as the applicant no. 2 is concerned, it is alleged that there are two Ranjeet, one belongs to her village and another belongs to village Kaithla. No chargesheet was submitted against the applicants and only co-accused Jitendra was chargesheeted on 22.06.2023.

5. It is further submitted by the learned counsel for the applicants that the learned Magistrate took cognizance of the offence and thereafter the case was committed to the court of sessions, where charges were framed upon the co-accused; he pleaded not guilty and claimed to be tried. It is further submitted that after framing of charges, the prosecution adduced evidence and statements of PW-1/informant/father of the victim, PW-2/victim, were recorded during the course of trial and thereafter the application under Section 319 Cr.P.C. / 358 BNSS was moved by the prosecution to summon the applicants to face criminal trial. The said application moved under Section 319 Cr.P.C. / 358 BNSS was allowed by the learned trial court vide order dated 13.04.2026.

6. Being aggrieved vide order dated 13.04.2026, the applicants preferred a Criminal Revision Defective No. 1594 of 2026, however, no interim order was granted to them. It is further contended that the applicants are hopeful that they would succeed in their criminal revision and in the meantime they are ready to appear before the court concerned in pursuance of summoning order dated 13.04.2026.

7. It is further submitted that the applicants were exonerated by the Investigating Officer and, prima facie, their complicity in the alleged offence were not found after due investigation. The applicants have been summoned in the present case on the whims of the prosecution. The applicants are ready to face criminal trial. The investigation has already been completed in this matter and no complicity of the applicants in the alleged offence was found. There is no requirement of custodial interrogation of the applicant. The applicants have no criminal history to their credit. Learned counsel for the applicants further submits that the applicants undertake to cooperate during trial and shall appear as and when required by 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 trial court, and shall abide by all the conditions that may be imposed by the Court.

8. On the other hand, learned A.G.A. has opposed the application for anticipatory bail, however, he does not dispute the factual aspect. The Investigating Officer was bluffed by the applicants, therefore, no charge-sheet was submitted against them.

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

10. The applicants were not named in the F.I.R. The complicity of the applicants was not found by the Investigating Officer in the alleged crime. They have been summoned by the learned trial court to face criminal trial by exercising powers under Section 319 Cr.P.C. / 358 BNSS and there is no requirement of custodial interrogation of the applicants. Considering the submissions made by learned counsel for the parties, this Court is of the view that the applicants have made out a case for grant of anticipatory bail.

11. 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.*
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> *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."*

12. Considering the settled principle of law regarding anticipatory bail, submissions of the learned counsel for the parties, nature of accusation, role of applicants 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.

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

(i) In the event of arrest/appearance of the applicants- **Yogesh** and **Ranjeet** 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 him from disclosing such facts to the Court; and

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

14. 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
A.P. Pandey

Digitally signed by :-
ANAND PRAKASH PANDEY
High Court of Judicature at Allahabad