2026:AHC:219453

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. ANTICIPATORY BAIL APPLICATION U/S 482 BNSS No. - 5718 of 2026

Virendra Kumar

.....Applicant(s)

Versus

State Of U.P. And 2 Others

.....Opposite Party(s)

Counsel for Applicant(s)	:	Anand Kumar Tripathi, Ayush Mishra, Manish Shukla, Parijat Mishra, Prabha Shanker Mishra, Rasmi Khilwani, Shiv Kant Mishra
Counsel for Opposite Party(s)	:	G.A.

Court No. - 71

HON'BLE VIVEK KUMAR SINGH, J.

1. Heard learned counsel for the applicant, 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.0169/2020, under Sections 8 and 20 of the NDPS Act, Police Station -Balua, District Chandauli, 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 him. It is further contended that the applicant is not nominated in the FIR dated 28.12.2020, which was lodged against the co-accused, alleging therein that the aforesaid co-accused were arrested by the police along with four quintals of ganja. The name of the applicant was not taken by the aforesaid co-accused when their statements were recorded by the police. It is alleged that the contraband was being transported in Vehicle No. WB 33A 8638 which belongs to the applicant. It is submitted by the learned counsel for the applicant that the aforesaid vehicle had been sold by him to one Sant Lal Singh on 13.06.20215, and a sale deed was executed between the parties. However, no application for transferring the vehicle in question has ever been moved by the aforesaid Sant Lal Singh.

He was using the aforesaid truck for the past five years. The applicant's name has surfaced during further investigation after almost five and a half years of the incident. He has been sent a notice dated 17.04.2026 under Section 179 BNSS. The applicant has an apprehension of his arrest. He is cooperating in the investigation. He has no prior criminal antecedent to his credit. Learned counsel for the applicant further submits that the applicant 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 applicant is granted anticipatory bail, he 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, the learned A.G.A. has opposed the application for anticipatory bail. It is submitted that a huge quantity of contraband was recovered from the possession of the aforesaid co-accused. However, it is fairly conceded by the learned A.G.A. that the name of the applicant was not mentioned by the aforesaid co-accused in their confessional statements and that the name of the applicant has surfaced after more than five years of the incident. The applicant was the owner of the truck in question, and it is being investigated as to whether the aforesaid truck was transferred by the applicant to one Sant Lal Singh.

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

6. The applicant is not nominated in the FIR dated 28.12.2020. It is an admitted fact that the name of the applicant has surfaced after more than five years of the incident. There is no allegation that the applicant is not cooperating in the investigation. The applicant has no criminal antecedents to his credit. The other co-accused, who were arrested by the police, did not take the name of the applicant when their confessional statements were recorded. There is no evidence at this stage against the applicant except the fact that he was the owner of the truck in question. The prosecution could not bring forth any evidence against the applicant to show that he was in touch with the co-accused who were arrested on the spot. The false implication of the applicant cannot be ruled out at this stage.

7. In **Sushila Aggarwal and others vs. State (NCT of Delhi) and another, (2020) 5 SCC 1**, the Hon'ble Apex Court has held that while considering an application for grant of anticipatory bail, the court has to consider the nature of the offence, the role of the person, the likelihood of his influencing the course of investigation, or tampering with evidence including intimidating witnesses, likelihood of fleeing justice, such as leaving the country, etc. It has further been held that Courts ought to be generally guided by considerations such as the nature and gravity of the offences, the role attributed to the applicant, and the facts of the case, while considering whether to grant anticipatory bail, or refuse it. Whether to grant or not is a matter of discretion.

8. In **Siddharth Vs. State of Uttar Pradesh & Another, (2022) 1 Supreme Court Cases 676**, the Hon'ble Apex Court has held that personal liberty is an important aspect of our constitutional mandate. The occasion to arrest an accused during investigation arises when custodial investigation becomes necessary or it is a heinous crime or where there is a possibility of influencing the witnesses or accused may abscond. Merely because an arrest can be made because it is lawful does not mandate that arrest must be made. A distinction must be made between the existence of the power to arrest and the justification for exercise of it. If arrest is made routine, it can cause incalculable harm to the reputation and self-esteem of a person. If the Investigating Officer has no reason to believe that the accused will abscond or disobey summons and has, in fact, throughout cooperated with the investigation, then there is no compulsion on the officer to arrest the accused.

9. Having considered the rival submissions advanced by learned counsel for the parties, the nature of accusations, the evidence brought on record, the absence of any criminal antecedents and without expressing any opinion on the merits of the case, this Court finds that the applicant has have made out a case for grant of anticipatory bail.

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

(i) In the event of arrest of the applicant- **Virendra Kumar,** involved in aforesaid case shall be released on anticipatory bail till the conclusion of

trial, on his/her furnishing a personal bond of Rs.50,000/- with two sureties each of the like amount to the satisfaction of the Station House Officer of the police station concerned or to the court concerned;

(ii) The applicant shall co-operate with the Investigating Officer during investigation and shall report to the Investigating Officer as and when required for the purpose of conducting investigation;

(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/her from disclosing such facts to the Court or to any police officer; and

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

11. 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 22, 2026
Radhika

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