Court No. - 67

Case :- CRIMINAL MISC. ANTICIPATORY BAIL APPLICATION U/S 482 BNSS No. - 4464 of 2025

Applicant :- Asheesh Kumar
Opposite Party :- State of U.P. and Another
Counsel for Applicant :- Abhishek Trivedi
Counsel for Opposite Party :- G.A.

Hon'ble Arun Kumar Singh Deshwal,J.

1. Heard Sri Abhishek Trivedi, learned counsel for the applicant, Sri Pankaj Saxena, learned AGA for the State and perused the record.

2. The present application has been filed by the applicant seeking bail in anticipation of his arrest in Complaint Case No. 938 of 2021, under Sections 452, 392, 323, 504, 506 IPC, Police Station- Rauja, District- Shahjahanpur.

3. Contention of learned counsel for the applicant is that the applicant has been falsely implicated in the instant case and co-accused Smt. Rani Devi @ Rani has already been released on anticipatory bail by co-ordinate Bench of this Court in Criminal Misc. Anticipatory Bail Application No.12305 of 2024 vide order dated 28.04.2025, therefore, the applicant is also entitled to claim parity with co-accused Smt. Rani Devi @ Rani.

4. Per contra, learned A.G.A. has raised objection that anticipatory bail application is not maintainable in complaint cases specifically in those cases where complaint is at summoning stage, therefore, there is no apprehension of arrest.

5. After hearing the submission of learned counsel for the parties and perusal of record, it appears that Section 482 BNSS provides that person has reason to believe that he may be arrested on an accusation of committing any non-bailable offence, then he may move anticipatory bail to the High Court or the Court of Sessions. Section 482 BNSS is being quoted as follows;

Section 482. (1) When any person has reason to believe that he may be arrested on an accusation of having committed a non-bailable offence, he may apply to the High Court or the Court of Session for a direction under this section; and that Court may, if it thinks fit, direct that in the event of such arrest, he shall be released on bail.

(2) When the High Court or the Court of Session makes a direction under sub-section (1), it may include such conditions in such directions in the light of the facts of the particular case, as it may think fit, including—

(i) a condition that the person shall make himself available for interrogation by a police officer as and when required;

(ii) a condition that the person 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 or to any police officer;

(iii) a condition that the person shall not leave India without the previous permission of the Court;

(iv) such other condition as may be imposed under sub-section (3) of section 480, as if the bail were granted under that section.

(3) If such person is thereafter arrested without warrant by an officer in charge of a police station on such accusation, and is prepared either at the time of arrest or at any time while in the custody of such officer to give bail, he shall be released on bail; and if a Magistrate taking cognizance of such offence decides that a warrant should be issued in the first instance against that person, he shall issue a bailable warrant in conformity with the direction of the Court under sub-section (1).

(4) Nothing in this section shall apply to any case involving the arrest of any person on accusation of having committed an offence under section 65 and sub-section (2) of section 70 of the Bharatiya Nyaya Sanhita, 2023.

6. From perusal of Section 482 BNSS, it is clear that the basic requirement for maintainability of application for anticipatory bail is accusation must be the committal of non-bailable offence and there must be apprehension to arrest. Therefore, question arises merely issuance of summon in complaint case will be sufficient to presume that the applicant has apprehension to arrest. Even condition under Section 482(2)(i) of BNSS also provides that the court, while granting anticipatory bail, may impose a condition that the applicant shall make himself available to the police for interrogation. However, Section 482 BNSS does not provide for maintainability of anticipatory bail application whereas the court issues any summon or warrant in a complaint case.Therefore, this issue is required to be determined. On this point the Court reserves its judgement.

7. Judgement Reserved.

8. However considering the fact that co-accused Smt. Rani Devi @ Rani has already been released on interim anticipatory bail, the applicant is also entitled to be released on interim anticipatory bail

till delivery of judgement.

9. In the event of arrest, the applicant **Asheesh Kumar** in the aforesaid case shall be released on interim anticipatory bail on his furnishing a personal bond and two sureties each in the like amount to the satisfaction of the investigating officer with the following conditions.

(i) The applicant shall make himself available for interrogation by a police officer as and when required;

(ii) 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 or to any police officer;

(iii) The applicant shall not leave India without the previous permission of the Court;

(iv) The applicant shall not tamper with the prosecution evidence by intimidating/ pressurizing the witnesses, during the investigation.

(v) The applicant shall not indulge in any criminal activity or commission of any crime after being released on bail.

Order Date :- 18.6.2025
A.Kr.

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