

Shakeel Alias Kaale And Another vs State Of U.P. And Another on 4 February, 2025

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Neutral Citation No. - 2025:AHC:15240

Court No. - 33

Case :- CRIMINAL MISC. ANTICIPATORY BAIL APPLICATION U/S 482 BNSS No. - 630 of 2025

Applicant :- Shakeel Alias Kaale And Another

Opposite Party :- State of U.P. and Another

Counsel for Applicant :- Mohd Adil

Counsel for Opposite Party :- G.A.

Hon'ble Vikram D. Chauhan,J.

1. Heard learned counsel for the applicants as well as learned AGA and perused the material available on record.
2. The present Anticipatory Bail Application has been filed with the prayer to grant anticipatory bail to the applicants - Shakeel Alias Kaale and Eidu in Case Crime No. 255 of 2024, under Sections 191(2), 191(3), 190, 109, 115(2), 125, 352, 351(2) B.N.S. and Section 7 Criminal Law Amendment Act, Police Station - Farah, District - Mathura.
3. It is submitted by learned counsel for the applicants that co-accused Gulzar, Mohammed Banti and Danu Alias Danish have already been granted anticipatory bail by this Court by order dated 22.10.2024 passed in Criminal Misc. Anticipatory Bail Application U/S 482 BNSS No. 10188 of 2024. The applicants have similar role and seeks parity. It is further submitted by learned counsel for applicants that applicants are innocent and have no concern with the present matter. Allegations

levelled against the applicants are false. It is further argued that applicants' case is squarely covered under Section 482 BNSS. No prima facie case is made out against the applicants. If the applicants are enlarged on anticipatory bail, they will not misuse the liberty and cooperate with the investigation. The applicants have apprehension of their arrest by the police any time. Applicant no.2 has no criminal history and criminal history of applicant no.1 has been explained in para 3 of the supplementary affidavit dated 1.2.2025

4. Learned A.G.A. opposed the prayer but does not dispute the parity.

5. It is not shown by learned AGA that the offence in question will have impact on society at large. It is not shown that act causes harm to the society. The accusations arise out of dispute between individuals. It is not shown by learned AGA that the nature and gravity of allegations are such that the same would disentitle the applicants for relief of anticipatory bail. Learned AGA has not raised concern that any prejudice would be caused to free, fair and full investigation in the event the applicants are granted anticipatory bail. No material, facts, circumstances or concern been shown by learned AGA for the State that the accused may tamper with the evidence or witnesses or accused is of such character that their mere presence at large would intimidate the witnesses or that accused will use his liberty to subvert justice or tamper with the evidence.

6. Learned AGA for the State has pointed out the criminal antecedents of the applicants. No material or circumstance has been brought to the notice of this Court with regard to tampering of evidence or intimidating of witness in previous criminal cases.

7. In Ash Mohammad Vs. Shiv Raj Singh, (2012) 9 SCC 446, the Apex Court in para 30 has observed:-

"We may hasten to add that when we state that the accused is a history-sheeter we may not be understood to have said that a history-sheeter is never entitled to bail. But, it is a significant factor to be taken note of regard being had to the nature of crime in respect of which he has been booked."

8. In the case of Prabhakar Tewari Vs. State of U.P. and another, 2020 (11) SCC 648, the Hon'ble Supreme Court has observed that pendency of several criminal cases against an accused may itself cannot be a basis for refusal of bail.

9. In so far as criminal antecedents of applicant no.1 are concerned, it is not the case of the State that applicants might tamper with or otherwise adversely influence the investigation, or that they might intimidate witnesses before or during the trial. The State has also not placed any material that applicants in past attempted to evade the process of law. If the accused is otherwise found to be entitled to bail, they cannot be denied bail only on the ground of criminal history, no exceptional circumstances on the basis of criminal antecedents have been shown to deny bail to accused, hence, the Court does not feel it proper to deny bail to the applicants just on the ground that they had criminal antecedents.

10. It is settled principle of law that the object of bail is to secure the attendance of the accused. No material particulars or circumstances suggestive of the applicants fleeing from justice or thwarting the course of justice or creating other troubles in the shape of repeating offences or intimidating witnesses and the like have been shown by learned AGA for the State.

11. In view of above, applicants are granted anticipatory bail in respect of offence described in para 2 of the present order. In the event of arrest of the applicants, they shall be released on anticipatory bail on their furnishing a personal bond of Rs.25,000/- with two sureties each in the like amount to the satisfaction of the court concerned with the following conditions:-

(i) The applicants shall make themselves available for interrogation by a police office as and when required.

(ii) 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 themselves from disclosing such facts to the Court or to any police office.

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

(iv) In the event, applicants change residential address, the applicants shall inform the court concerned/Investigating Officer about new residential address in writing.

(v) The applicants shall cooperate with the investigation and make themselves available for interrogation whenever required.

(vi) The applicants shall not obstruct or hamper the police investigation and not to play mischief with the evidence collected or yet to be collected by the police.

(vii) The applicants shall maintain law and order.

(viii) The applicants shall at the time of execution of the bond, furnish their address and mobile number to Investigating Officer, and the court concerned.

(ix) The applicants shall regularly remain present during the trial, and cooperate with the Court to complete the trial for the above offences.

(x) Non presence of the applicants or their counsel before the court concerned shall be construed as violation of the present order and the court concerned would be at liberty to take coercive measures in accordance with law.

12. In case of default of any of the conditions, the Investigating Officer shall be at liberty to file appropriate application for cancellation of protection granted to the applicants.

13. With the directions made above, the anticipatory bail application stands allowed.

Order Date :- 4.2.2025 D. Tamang