

Ajay Kumar Yadav vs State Of U.P. And Another on 1 May, 2025

Author: Sanjay Kumar Singh

Bench: Sanjay Kumar Singh

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Neutral Citation No. - 2025:AHC:68962

Court No. - 78

Case :- CRIMINAL MISC. ANTICIPATORY BAIL APPLICATION U/S 482 BNSS No. - 2845 of 2025

Applicant :- Ajay Kumar Yadav

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

Counsel for Applicant :- Chandra Prakash Singh

Counsel for Opposite Party :- G.A.

Hon'ble Sanjay Kumar Singh,J.

Heard learned counsel for the applicant, learned Additional Government Advocate representing the State of U.P. and perused the record.

This Criminal Misc. Anticipatory Bail Application under Section 482 of B.N.S.S. has been moved by the applicant after submission of charge-sheet and rejection of his anticipatory bail application vide order dated 07.03.2025 passed by learned Additional Session Judge/Special Judge (Prevention of Corruption Act), Court No. 4, Gorakhpur, seeking Anticipatory Bail in Case Crime No. 7 of 2023, under Sections 7, 13(1)B, 13(2) of Prevention of Corruption Act and Section 120-B of I.P.C., police station Anti Corruption, district Gorakhpur, during the pendency of the trial.

As per prosecution case, the complainant gave a complaint dated 11.11.2023 in the office of Anti Corruption Organization, Gorakhpur making allegations inter alia that he has installed a water plant

at his house. Last year, display of the electricity meter, installed by the electricity department in his water plant, got damaged. After giving information twice, Sub Divisional Officer (in short 'SDO') came to check his meter on 23.08.2022 and went after checking. On 25.09.2022, his meter was checked and replaced by the electricity department and he has been paying electricity bills regularly. When in November, 2023, meter reader came to take the meter reading, he told that your account has been put on hold by the SDO and directed him to go and meet SDO. When he met SDO at the Electricity Sub Station, Suraj Kund, Gorakhpur, then he told him that the feeding of the new meter installed at the water plant has not been done in the department, due to which the bill is pending from the time the new meter was installed, till now. When he told the SDO that the meter has been installed by the electricity department and he has been paying the entire bill on time since the installation of the meter and before that, then SDO directed him to go and meet Sandeep Babu, he will explain everything to him. After this, when he went to meet Sandeep Babu, then he demanded bribe of Rs. 25,000/- for feeding of new meter.

Taking cognizance of the said complaint, a preliminary inquiry was conducted for prima facie satisfaction to proceed further in the matter. On being satisfied with the opinion given in the inquiry report, a trap team was constituted to catch the person concerned red handed while accepting bribe. The currency notes, already numbered, coated with an invisible powder and after completing pre-trap formalities, etc., the trap team along with independent witnesses and complainant proceeded to the designated place to execute the trap proceeding. It is the case of the prosecution that the moment the accused Sandeep accepted the bribe of Rs. 25,000/-, the trap team nabbed him red handed. His hands were then dipped in sodium carbonate solution, the colour of solution changes to pink, which prima facie proved that he has taken the currency notes in question. On preliminary interrogation, Sandeep disclosed that he has accepted the bribe at the instance of S.D.O. (applicant-Ajay Kumar Yadav). Sandeep has also disclosed that he has to feed the bill of the complainant in the system but the applicant was authorized to make an amendment in bill and to grant approval. Thereafter, Mr. Ram Bahadur Pal (Inspector / In-Charge Trap Team) got a first information report lodged in the matter on 18.11.2023.

Learned counsel for the applicant has submitted that the applicant has been falsely implicated in this case. There is no evidence on record to show any demand of bribe by the applicant from the complainant, he has no knowledge about the bribe demanded by co-accused Sandeep with regard to repairing of meter and correction of meter reading. Allegations levelled against the applicant are false and based on concocted facts. Investigating officer has not conducted fair investigation. No offence is made out against the applicant.

Per contra, learned Additional Government Advocate representing the State of U.P. opposed the prayer for granting anticipatory bail to the applicant by contending that the investigating officer, after due investigation, submitted charge sheet dated 06.02.2025 in this case on the basis of cogent material against the applicant, therefore, as on date cognizable offence is made out against the applicant and it can not be presumed that he has been falsely implicated. Lastly it is submitted that in the light of judgment of the Hon'ble Apex Court in the case of P. Chidambaram Vs. Directorate of Enforcement, AIR 2019 SC 4198, refusal of anticipatory bail in an appropriate case does not amount to denial of rights conferred upon applicant under article 21 of the Constitution of India. Since there

is no exceptional ground to exercise the discretionary jurisdiction under Section 482 B.N.S.S. in favour of the applicant. Hence the instant anticipatory bail application is liable to be rejected.

Having heard the learned counsel for the parties, I find that as per the prosecution case, co-accused Sandeep (clerk) was caught red handed while accepting bribe at the behest of present applicant Ajay Kumar Yadav (S.D.O.). The charge sheet has been filed after required sanction by the authority concerned and on the charge sheet, the concerned Court took cognizance. As on date, I do not find any credible material on record to give any finding that applicant has been falsely implicated.

The Hon'ble Apex Court in the case of Sumitha Pradeep vs. Arun Kumar C.K. and another, 2022 LiveLaw (SC) 870 has held that while considering anticipatory bail, the nature of offence should be looked into along with the severity of the punishment. It is also held that even if custodial interrogation is not required or necessitated, by itself, cannot be a ground to grant anticipatory bail.

Here it would also be apposite to mention the observations made by the Hon'ble Apex Court in the case of Devinder Kumar Bansal Vs. State of Punjab, 2025 SCC OnLine SC 488, wherein the Apex Court has laid down the criteria for considering anticipatory bail in the matters relating to the offences under the Prevention of Corruption Act, which are as under:-

"21. The parameters for grant of anticipatory bail in a serious offence like corruption are required to be satisfied. Anticipatory bail can be granted only in exceptional circumstances where the Court is prima facie of the view that the applicant has been falsely enroped in the crime or the allegations are politically motivated or are frivolous. So far as the case at hand is concerned, it cannot be said that any exceptional circumstances have been made out by the petitioner accused for grant of anticipatory bail and there is no frivolity in the prosecution.

22. In the aforesaid context, we may refer to a pronouncement in Central Bureau of Investigation v. V. Vijay Sai Reddy, (2013) 7 SCC 452: (2013) 7 Scale 15, wherein this Court expressed thus:

"28. While granting bail, the court has to keep in mind the nature of accusation, the nature of evidence in support thereof, the severity of the punishment which conviction will entail, the character of the accused, circumstances which are peculiar to the accused, reasonable possibility of securing the presence of the accused at the trial, reasonable apprehension of the witnesses being tampered with, the larger interests of the public/State and other similar considerations. It has also to be kept in mind that for the purpose of granting bail, the Legislature has used the words "reasonable grounds for believing" instead of "the evidence" which means the Court dealing with the grant of bail can only satisfy it as to whether there is a genuine case against the accused and that the prosecution will be able to produce prima facie evidence in support of the charge. It is not expected, at this stage, to have the evidence establishing the guilt of the accused beyond reasonable doubt."

(Emphasis supplied)

23. The presumption of innocence, by itself, cannot be the sole consideration for grant of anticipatory bail. The presumption of innocence is one of the considerations, which the court should keep in mind while considering the plea for anticipatory bail. The salutary rule is to balance the cause of the accused and the cause of public justice. Over solicitous homage to the accused's liberty can, sometimes, defeat the cause of public justice.

24. If liberty is to be denied to an accused to ensure corruption free society, then the courts should not hesitate in denying such liberty. Where overwhelming considerations in the nature aforesaid require denial of anticipatory bail, it has to be denied. It is altogether a different thing to say that once the investigation is over and charge-sheet is filed, the court may consider to grant regular bail to a public servant-accused of indulging in corruption."

Object of Section 482 of B.N.S.S. 2023, is that a person should not be unnecessarily harassed or humiliated in order to satisfy personal vendetta or grudge of complainant or any other person operating the things directly or from behind the curtains. It is well settled that discretionary power conferred by the legislature on this Court cannot be put in a straitjacket formula, but such discretionary power either grant or refusal of anticipatory bail has to be exercised carefully in appropriate cases with circumspection on the basis of the available material after evaluating the facts of the particular case and considering other relevant factors (nature and gravity of accusation, role attributed to accused, conduct of accused, criminal antecedents, possibility of the applicant to flee from Justice, apprehension of tampering of the witnesses or threat to the complainant, impact of grant of anticipatory bail in investigation or society, etc.) with meticulous precision maintaining balance between the conflicting interest, namely, sanctity of individual liberty and interest of society.

In the light of above, looking to the facts and circumstances of this case, submissions of learned counsel for the parties as mentioned above, gravity and nature of accusation, this Court is of the view that after submission of charge-sheet against the applicant and material evidence on record as noted above, no case for exercising its discretionary power for granting anticipatory bail till conclusion of trial, is made out in favour of applicant.

In view of the above, the prayer of the applicant for grant of anticipatory bail till conclusion of trial is hereby refused.

Accordingly, this anticipatory bail application is rejected.

It is clarified that anything said in this order at this stage is limited for the purpose of determination of this anticipatory bail application and will in no way be construed as an expression on the merits of the case. The trial court concerned shall be absolutely free to arrive at its independent conclusions according to law on the basis of materials / evidences on record.

Order Date :- 1.5.2025 Kashifa