

Tazeem vs State Of U.P. And Another on 1 May, 2025

Author: Vivek Varma

Bench: Vivek Varma

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Neutral Citation No. - 2025:AHC:68349

Court No. - 69

Case :- CRIMINAL MISC. ANTICIPATORY BAIL APPLICATION U/S 482 BNSS No. - 1472 of 2025

Applicant :- Tazeem

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

Counsel for Applicant :- Mohd. Shabbir, Mohd. Tasleem

Counsel for Opposite Party :- G.A.

Hon'ble Vivek Varma, J.

1. Heard counsel for the applicant, Sri Neeraj Kumar Sharma, learned A.G.A. for the State and perused the material available on record.
2. The present application has been filed with the prayer to grant anticipatory bail to the applicant in Case Crime No. 450 of 2023, under Sections 354, 323, 506 of I.P.C., Police Station- Hafizganj, District- Bareilly.
3. Counsel for the applicant submits that the applicant has been falsely implicated in the present case. The victim and the co-accused, Salim were in consensual relationship for considerable period

of time. The applicant, being the brother of co-accused, Salim, has been falsely implicated in the present case. The applicant had not acted indecently with the victim. The case of the applicant is distinguishable from that of the co-accused, Salim. Further, during the course of investigation, the applicant was granted benefit of Section 41A of Cr.P.C. Investigation has been completed. Charge-sheet has been filed. The applicant had cooperated in the investigation. No custodial interrogation is required. The applicant has been summoned by the concerned court. Counsel for applicant further contends that the maximum sentence provided for the alleged offences is upto seven years. He submits that in view of the judgment of Hon'ble Supreme Court in the case of Satender Kumar Antil Vs. Central Bureau of Investigation and another, (2021) 10 SCC 773, the applicant is entitled to be enlarged on anticipatory bail. The applicant has no criminal antecedents. The applicant has apprehension of his arrest in the above mentioned case. In case, the applicant is released on anticipatory bail, he will not misuse the said liberty.

4. Learned A.G.A. has opposed the prayer for anticipatory bail but could not satisfactorily dispute the aforesaid submissions from the record.

5. The Supreme Court in the case of Satender Kumar Antil (supra) has laid down the guidelines with regard to enlargement of an accused on bail. The guidelines provided category/type of offences. One of the category being Category-A are offences punishable with imprisonment of seven years or less. The Supreme Court in paragraph-3 of the aforesaid judgment has laid down the guidelines that after the filing of the charge sheet/cognizance ordinary the summons are required to be issued permitting the appearance of the accused through Lawyer and the bail applications of the accused persons on appearance are to be decided without the accused being taken into custody or by granting interim bail. A perusal of the aforesaid guidelines would demonstrate that the liberty of an individual has been recognized by the Hon'ble Supreme Court in the aforesaid judgment in term of Article 21 of the Constitution of India.

6. It is further to be noted that as per Section 41 of the Code of Criminal Procedure also during investigation the liberty of an individual is protected in respect of an offence where the maximum punishment provided is upto seven years.

7. It is not the case of the opposite party that applicant was arrested for the alleged offences during investigation and it is also not the case of the opposite party that the applicant had not co-operated in the investigation. Once no apprehension has been raised with regard to the conduct of the applicant and the applicant has been charge-sheeted and summoned in respect of offence in which punishment provided is upto seven years, then in view of the judgment of the Supreme Court in Satender Kumar Antil (supra), the liberty of the individual is required to be protected.

8. It is not shown by learned AGA that the nature and gravity of allegations are such that the same would dis-entitle the applicant for relief of 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 his mere presence at large would intimidate the witnesses or that accused will use his liberty to subvert justice or tamper with the evidence.

9. 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 applicant 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.

10. Having regard to the submissions made by counsel for the applicant, considering the nature of accusations, antecedents of the applicant and the fact that the victim and the co-accused, Salim were in consensual relationship for considerable period of time, the fact that during the course of investigation, the applicant was granted benefit of Section 41A of Cr.P.C., the fact that the offences against the applicant are punishable up to seven years and adhering to the guidelines provided in the judgment of the Supreme Court in Satender Kumar Antil (supra), charge-sheet has been filed, the applicant had cooperated in the investigation and no custodial interrogation is required, without commenting on merits of the case, I am of the opinion that the applicant is entitled to be enlarged on anticipatory bail.

11. In the event of arrest, the applicant Tazeem be released on anticipatory bail during pendency of trial, on furnishing a personal bond of Rs. 50,000/- with two sureties each in the like amount to the satisfaction of the court concerned with the following conditions:-

(i) the applicant shall make himself available on each date fixed in the matter by the court concerned;

(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 from disclosing such facts to the Court;

(iii) the applicant shall not leave India without the previous permission of the Court and if he has passport the same shall be deposited by him before the concerned court.

12. In default of any of the conditions, the court concerned is at liberty to pass appropriate orders for enforcing and compelling the same.

13. The application stands disposed of.

Order Date :- 1.5.2025 Sachin Mishra