



2026:AHC:278

HIGH COURT OF JUDICATURE AT ALLAHABAD
CRIMINAL MISC. ANTICIPATORY BAIL APPLICATION U/S 482 BNSS No.
- 10241 of 2025

Monika

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite
Party(s)

Counsel for Applicant(s)	:	Raghvendra Prakash, Sr. Advocate
Counsel for Opposite Party(s)	:	Babloo Pant, G.A.

Court No. - 65

A.F.R.

HON'BLE DR. GAUTAM CHOWDHARY, J.

1. Heard Shri Gaurav Kakkar, learned Senior Advocate, assisted by Shri Raghvendra Prakash, learned counsel for the applicant, Shri Chandan Singh, learned A.G.A. for the State as well as Shri Babloo Pant, learned counsel for the applicant and perused the record.
2. The present application has been moved seeking anticipatory bail in Case Crime no. 472 of 2023, under Sections 316, 420, 504, 120-B I.P.C. and Section 15(2), 15(3) of Medical Council Act, 1956, Police Station Kiratpur, District Bijnor, with the prayer that in the event of arrest, applicant may be released on anticipatory bail.
3. At the very outset learned counsel for the informant submits that non bailable warrant as well as proclamation under Sections 82 & 83 Cr.P.C. have been issued against the applicant earlier, therefore, there is no occasion to entertain the present anticipatory bail application and the same deserves to be dismissed.
4. Learned counsel for the applicant submits that applicant is the midwife nurse in the hospital of the co-accused having no concern with the alleged incident. After filing of complaint the applicant was granted interim anticipatory bail by the concerned trial court. When the anticipatory bail application of the applicant was rejected by the trial court then she approached this Court by filing Criminal Misc. Anticipatory Bail Application No. 9657 of 2024 wherein a coordinate Bench of this Court vide order dated 17.10.2024 granted interim protection till the next date of listing, however, this anticipatory bail application has been rejected by this Court vide order dated 25.09.2025. Now the applicant has filed this second anticipatory bail application after the charge sheet has already

been submitted. Learned counsel for the applicant further submits that there is no whisper against the applicant in previous four applications moved under Section 156(3) Cr.P.C. by the informant. The F.I.R. itself is delayed by more than one and half years. The main allegation is against the co-accused and the applicant has been implicated in the case only as she was giving service of nurse in the said hospital under the supervision of the co-accused at the alleged date of occurrence.

5. Learned counsel for the applicant further submits that as far as objection raised on behalf of informant that the non bailable warrant as well as proclamation under Section 82/83 Cr.P.C. have already been issued earlier against the applicant is concerned, it is very humbly submitted that though the charge sheet was filed on 09.11.2024 whereupon cognizance was taken on 19.05.2025 and non bailable warrant was issued against her on 10.10.2025 but at that time the applicant was in family way and she gave birth of a male child on 06.10.2025 also. Thus, when the processes were issued she was in family way. After cognizance the applicant also moved several applications on each and every date for exemption of her personal appearance as she was in family way and was unable to appear before the trial court but the learned trial court without considering such application has issued non bailable warrant against the applicant, which is against the natural justice and is also against the dictum followed by Hon'ble Apex Court in the case of **Asha Dubey Vs. The State of Madhya Pradesh (Criminal Appeal No. 4564 of 2024, decided on 12.11.2024)**. In support of his submission the learned counsel placed reliance upon paras-6 to 9 of the said judgment which read as under:

"6. The relationship between the appellant and the deceased is not in dispute. Admittedly, the son of the appellant has been arrested and he is still in custody. It is incorrect to state that pursuant to the interim protection granted, the appellant was not cooperating in the investigation and in fact despite communication sent by the appellant to investigating authority, the investigating authority has not called her for joining the investigation.

7. Considering the facts and circumstances of the case, we are of the view that the custodial interrogation of the appellant is not required.

8. Coming to the consideration of anticipatory bail, in the event of the declaration under Section 82 of the Cr.P.C., it is not as if in all cases that there will be a total embargo on considering the application for the grant of anticipatory bail.

9. When the liberty of the appellant is pitted against, this Court

will have to see the circumstances of the case, nature of the offence and the background based on which such a proclamation was issued. Suffice it is to state that it is a fit case for grant of anticipatory bail, on the condition that the appellant shall cooperate with the further investigation. However, liberty is also given to the respondents to seek cancellation of bail that has been granted, in the event of a violation of the conditions which are to be imposed by the Trial Court or if there are any perceived threats against the witnesses."

6. Learned counsel for the applicant thus submits that considering the fact that at the time when certain processes were issued against the applicant she was in family way and she was unable to appear before the court concerned, though she had moved applications for exemption of her personal appearance through counsel but the same have not been considered by the trial court. Thus, it has been argued that in the event of declaration under Section 82 Cr.P.C. it is not as if in all cases that there will be a total embargo on considering the applicant for grant of anticipatory bail. It has lastly been submitted that applicant has no criminal antecedents. It has also been submitted that applicant undertakes to cooperate during trial and she would appear as and when required by the Court. It has been stated that in case, applicant is granted anticipatory bail, he shall not misuse the liberty of bail and will cooperate with the trial and would obey all the conditions of bail.

7. Learned A.G.A. for the State as well as learned counsel for the informant, however, have opposed the application for anticipatory bail.

8. It may be stated that in case of **Siddharam Satlingappa Mhetre v. State of Maharashtra, (2011) 1 SCC 694**, it has been held by Hon'ble Supreme Court that while deciding anticipatory bail, Court must consider nature and gravity of accusation, antecedent of accused, possibility of accused to flee from justice and that Court must evaluate entire available material against the accused carefully and that the exact role of the accused has also to be taken into consideration.

9. In the instant case, considering the settled principle of law regarding anticipatory bail, submissions of the learned counsel for the parties, nature of accusation, role of applicant and all attending facts and circumstances of the case and considering the above proposition of law laid down by Hon'ble Apex Court in the case of **Asha Dubey (supra)** that it is not as if in all cases that there will be a total embargo on considering the application for grant of anticipatory bail as here in the present case at the time when certain processes were issued against the applicant she was in family way and was unable to appear before the court concerned, this Court finds it a fit case for grant of anticipatory bail.

10. Accordingly, the present anticipatory bail application is **allowed**.

11. In the event of arrest of the applicant- **Monika**, involved in the aforesaid case crime shall be released on anticipatory bail **till conclusion of trial** on her 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 attend the court proceedings as and when required and shall not sought any unnecessary adjournment.

(ii) The applicant shall not directly or indirectly make any inducement, threat or promise or to any person acquainted with the facts of the case so as to dissuade her from disclosing such facts to the court to any police officer or tamper with the evidence.

(iii) The applicant shall cooperate during trial and would not misuse the liberty of bail.

12. In default of any of the conditions, the court concerned shall be at liberty to file appropriate application for cancellation of anticipatory bail granted to the applicant.

(Dr. Gautam Chowdhary,J.)

January 5, 2026

Mustaqeem.