



2025:AHC-LKO:57116

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

**CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S 438 CR.P.C.
No. - 1025 of 2025**

Rajeev Nayan Mishra @ Rajeev Nayan

.....Applicant(s)

Versus

Directorate Of Enforcement Govt. Of India
Lko. Zonal Office Lko.

.....Opposite
Party(s)

Counsel for Applicant(s) : Rishabh Chauhan, Abhishek
Tiwari, Anuj Taandon, Atul
Krishna, Prajwal Harsh
Counsel for Opposite Party(s) Kuldeep Srivastava

Court No. - 13

HON'BLE SUBHASH VIDYARTHI, J.

1. Heard Sri Anuj Taandon, learned counsel for the applicant, Sri Kuldeep Srivastava, learned counsel for the respondent - Directorate of Enforcement and perused the records.
2. The instant application has been filed by the applicant seeking anticipatory bail in Sessions Case No. 427/2025, ECIR No. ECIR/LKZO/10/2024, under Sections 3/4 PMLA, 2002, Police Station Enforcement Directorate, District Lucknow.
3. The aforesaid case has been registered on the basis of an FIR bearing Case Crime No. 166/2024 lodged by Inspector STF against 13 persons, not including the applicant, for commission of offences under Sections 420, 467, 468, 471, 120-B IPC read with Sections 3, 4, 7, 8, 9 of U. P. Public Examinations Act, in Police Station Kankarkheda, District Meerut, stating that the accused persons were involved in leaking examination paper of U. P. Police recruitment. The FIR states that the police had arrested five accused persons and the answer key was recovered from them. The other accused persons were implicated on the basis of custodial statement of the arrested accused persons.

4. The applicant was also implicated in the aforesaid scheduled offence on the basis of custodial statements of accused persons and the applicant has been granted bail in the scheduled offence by means of an order dated 29.05.2024 passed by a Coordinate Bench of this Court sitting at Allahabad in Criminal Misc. Bail Application No. 18852 of 2024.

5. On 30.04.2024, the Enforcement Directorate has lodged an ECIR on the basis of the aforesaid scheduled offence and some other matters. During investigation conducted by the Enforcement Directorate, the applicant's statement under Section 50 of the PMLA was recorded on 13.07.2024 while the applicant was in custody in connection with the scheduled offence. The provisional attachment of the applicant's properties was made on 06.8.2024. On 04.09.2024, the Enforcement Directorate filed an original complaint and on 10.01.2025, it filed a prosecution complaint. The provisional attachment order passed on 06.08.2024 was confirmed on 16.01.2025.

6. The applicant was released from custody on 07.11.2024.

7. The applicant has sought anticipatory bail in the present case stating that he has already participated in attachment proceedings and the provisional attachment order has been confirmed by the order dated 16.01.2025 after participation of the applicant. His statement under Section 50 PMLA was recorded by the ED while the applicant was in custody and thereafter he has been released on bail in the scheduled offence.

8. Opposing the prayer for anticipatory bail, Sri Kuldeep Srivastava, the learned counsel for the respondent - Enforcement Directorate, has stated that the applicant has not cooperated with the investigation and he has not responded to numerous summons issued to him for recording his statement under Section 50 of the PMLA. He has supplied the copies of some documents provided to him along with the instructions, which show that the first summons was issued to the applicant on 04.11.2024 directing him to appear

for recording his statement on 06.11.2024. It is undisputed that the applicant was already in jail on 04.11.2024 as also on 06.11.2024 and, therefore, there would be no occasion for service of summons dated 04.11.2024 upon the applicant as admittedly this summons has not been sent through the Superintendent of Jail where the applicant was lodged.

9. The next summons was issued to the applicant on 29.11.2024 asking him to appear on 11.12.2024 and to produce the records. A copy of the service report dated 16.12.2024 prepared by Satya Prakash Yadav, Upper Division Clerk, Enforcement Directorate has been provided to the Court wherein it is written that the Clerk had gone to serve the summons at the address given by the applicant. There he met the maternal aunt of the applicant and she told that the house did not belong to the applicant and he does not live there. The service report states that the lady did not receive the summons and she did not give the phone number of the applicant. The service report states that the Clerk had pasted the summons on a wall and clicked its photograph which is attached to the service report.

10. The photograph of the house annexed with this report contains a name plate mentioning "Pt. Durga Prasad Mishra, Suputra Swargiya Sri Mahadeo Prasad Mishra, Gram Dharmipur, San-1991". This photograph does not mention the name of the applicant's maternal uncle which is Indra Dutt Mishra and, therefore, it does not show that the Clerk had visited the house of Indra Dutt Mishra, where the applicant claims to be residing as he has no house of his own.

11. The photograph produced before this Court depicts the name plate of Durga Prasad Mishra affixed on a wall but it does not show any summons pasted on the wall of the house.

12. The service report does not contain the signatures or thumb impression of any person who has witnessed affixation of the summons on the wall of the house.

13. The manner in which the clerk of E.D. claims to have served the summons on the applicant is not the proper manner of service of any legal notice or summons. The Clerk who claims to have gone to serve the summons has not taken care to click a photograph of the house along with the notice pasted on the wall of the house. Nowadays with the advent of modern technology, evidence of visiting a place and affixation of summons on the wall of a particular house can be collected by taking a photograph with advanced applications available in any smart phone, which shows the geographical coordinates of the place and the date and time of taking the photograph but the Upper Division Clerk who was entrusted with the duty to serve the summons was perhaps not aware about these applications.

14. Upper Division Clerks are primarily entrusted with desk jobs and there is a serious doubt whether the duty of service of summons can officially been assigned to an Upper Division Clerk in accordance with some rules or regulations.

15. The learned counsel for the respondent-Enforcement Directorate has submitted that subsequently other summons were also sent to the applicant through post and through e-mail.

16. In response to the aforesaid submission, the learned counsel for the applicant has submitted that the applicant had been participating in the proceedings before the adjudicating authority where he has even appeared in person on some dates but the Enforcement Directorate did not to serve any summons on him and it did not try to arrest him. He has submitted that whenever required the Enforcement Directorate has already recorded statement of the applicant while he was in judicial custody.

17. The applicant has already spent more than seven months in custody before being released on bail in the scheduled offence. The applicant's mobile phone has been seized by STF barring his communication through phone and the learned counsel for the applicant has submitted that the applicant did not have access to

communication sent to him through electronic mode. The applicant has given an undertaking to cooperate with further investigation and to appear for recording his statement, as and when required.

18. In view of the foregoing discussion, I am of the view that the applicant is entitled to be granted anticipatory bail in the case.

19. Accordingly, the application seeking anticipatory bail is **allowed**. In the event of arrest/ appearance of applicant-**Rajeev Nayan Mishra @ Rajeev Nayan** before the learned Trial Court in the aforesaid case crime, he shall be released on anticipatory bail on furnishing a personal bond and two solvent sureties, each in the like amount, to the satisfaction of S.H.O./Court concerned on the following conditions and subject to any other conditions that may be fixed by the Trial Court:

(i). Within a period of one week from today, the applicant will inform his current address, current phone number in use and working e-mail id, to the Enforcement Directorate through an email.

(ii) that the applicant shall make himself available for interrogation by an officer of the Enforcement Directorate as and when required;

(iii) that 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 officer or tamper with the evidence;

(iv) that the applicant shall not leave India without the previous permission of the court; and

(v) that the applicant shall not pressurize/ intimidate the prosecution witness.

September 17, 2025

Pradeep/-

(Subhash Vidyarthi,J.)