



2026:AHC:57673

HIGH COURT OF JUDICATURE AT ALLAHABAD

**CRIMINAL MISC. ANTICIPATORY BAIL APPLICATION U/S 482 BNSS No.
- 2143 of 2026**

Kishan Yadav

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite
Party(s)

Counsel for Applicant(s) : Sakshi Jaiswal, Vimal Kumar Pandey
Counsel for Opposite Party(s) : G.A.

Court No. - 71

HON'BLE RAJIV LOCHAN SHUKLA, J.

1. Heard, Sri Vimal Kumar Pandey, Learned counsel for the applicant, Sri G.P. Singh, the Learned A.G.A. for the State and perused the record.

2. This anticipatory bail application has been filed by the applicant with a prayer to release him on anticipatory bail in Case Crime No.727 of 2025, under Section 105 of B.N.S., 2023, Police Station- Geeda, District- Gorakhpur.

3. The Learned counsel for the applicant has submitted that the applicant has been falsely implicated in the present case. He has solely been implicated on the basis of the confessional statement given by the co-accused. The Learned counsel for the applicant also contends that the co-accused, who have been found during investigation on the supposed perusal of the CCTV footage, were also not found to be in the company of the deceased or in the act of disposing of the body of the deceased. He further submits that the applicant is not even seen in the CCTV footage collected during investigation. There is no eye witness of the incident and the applicant is being sought to be arrested only on the basis of confessional statement of the co-accused.

4. The Learned A.G.A. has opposed the prayer for grant of anticipatory bail and has submitted that the investigation is still in progress. In the confessional statement of the co-accused, it has been found that it was the

applicant who had also assaulted the deceased and the applicant had directed the other co-accused to confine the deceased. Thereafter, the co-accused when they informed the applicant that the deceased was unconscious, the applicant had directed them to dispose of the unconscious man. The Learned A.G.A. has further submitted that the mobile number of the applicant has been disclosed in the confessional statement of the co-accused Suneel Pathak. He is also the salesman in the liquor shop of the applicant. The Learned A.G.A. contends that the applicant is required for custodial interrogation and he may not be granted protection during police investigation.

5. I have considered the submissions made by the Learned counsels for the parties and perused the material brought on the record.

6. The name of the applicant has surfaced during investigation in the statement of the co-accused. The Learned counsel for the applicant has relied upon the order passed by the Supreme Court in the case of **Sanju Bansal Vs. The State of Uttar Pradesh & Anr.**, in which the Supreme Court had made the following observations:-

"We have perused the affidavit of Shri Prashant Kumar, Director General of Police, Uttar Pradesh. He has stated that in the state of Uttar Pradesh, confessional statements are not being recorded by the Investigating Officers and the present case is an exception where charge - sheet contains alleged confessional statements of the accused recorded by the police. He has assured that appropriate action will be taken against the concerned Investigating Officer.

It is obvious that confessional statements recorded by the Police Officers which are part of the charge-sheet cannot remain a part thereof and the same must be ignored. The Trial Court to take note of this.

List the petition for hearing on 15th October, 2024."

7. The deceased had come to the shop of the applicant. The CCTV

footage, which the police relied upon for the purposes of contending that the co-accused had taken the deceased on a motorcycle to throw him off at some distant place to allay suspicion is yet to be examined in detail during investigation. The confessional statement of the co-accused clearly points out to the complicity of the applicant and also the fact of applicant having slapped the deceased. The matter involves the death of a 20 year old youth, who is said to be of a diminished mental capacity. The act on the face of the record is unprovoked and in such circumstances, I do not think it appropriate to grant anticipatory bail to the applicant during investigation.

8. In the opinion of this Court, the observations made by the Supreme Court are with respect to including confessional statement of accused as a part of the charge-sheet. The observations cannot be treated to mean that the Supreme Court intended that confessional statements recorded during investigation cannot be taken note of by the police. Confessional statement though inadmissible in evidence, recoveries or discovery of a new fact under Section 23 of the B.S.A., on the basis of such confessional statement and the part of the confessional statement, which leads to the discovery of a new fact is admissible in evidence. The observations of the Supreme Court were restricted to include confessional statement in charge-sheet and in no way can be read to mean that the police cannot proceed on the basis of any confession given by the accused.

9. In view of the above, I do not find it appropriate to enlarge the applicant on anticipatory bail.

10. The application stands *rejected*.

11. It is made clear that the observations made hereinabove are only restricted to the disposal of this anticipatory bail and shall not be construed to be an opinion on the merits of the case. The applicant may appear and apply for regular bail, which shall be considered and disposed of on its own merits without being influenced by the observations made in this order.

March 20, 2026

Sachin

(Rajiv Lochan Shukla,J.)