2026:AHC:100853

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. ANTICIPATORY BAIL APPLICATION U/S 482 BNSS No. - 4234 of 2026

Malishka @ Malishka Fatma

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite Party(s)

Counsel for Applicant(s)	:	Jaideep Pandey
Counsel for Opposite Party(s)	:	Chandra Vijai Singh, G.A., Shailendra Pratap Singh

Court No. - 71

HON'BLE AVNISH SAXENA, J.

1. Heard Sri Jaideep Pandey, learned counsel for the applicant, Sri Chandra Vijai Singh, learned counsel for the informant and Sri Prankaj Saxena, learned AGA-I for the State.

2. The present anticipatory bail application under Section 482 of BNSS has been filed by the applicant with a prayer to release him on anticipatory bail in Case Crime No. 21 of 2026, under Sections 3, 5(1) of U.P. Prohibition of Unlawful Conversion of Religion Act, 2021, P.S. Bilari, District Moradabad during pendency of the trial.

3. It is contended by learned counsel for the applicant that the accused/applicant has been falsely implicated in the FIR dated 22.01.2026 for the offences alleged under U.P. Prohibition of Unlawful Conversion of Religion Act, 2021. The FIR is lodged by the brother of victim against five named persons. The allegation in the FIR is that the victim, who is minor has been brain washed by the accused for conversion of her religion. She once forcefully provided Burka and she was continuously being pressurized for change of religion. The incident of wearing Burka is of 20.12.2025. The FIR is delayed. The applicant is co-student. The main allegation is levelled against one Aleena, who was already granted anticipatory bail by the coordinate Bench of this Court. Further submits that the accused/applicant has no criminal history. She wants to cooperate in the investigation but apprehending arrest.

4. Per contra learned A.G.A.-I and learned counsel for the informant have opposed the prayer for bail of the applicant and submits that there is specific statement of the victim recorded under Sections 180 and 183 BNSS, which shows that she is being pressurized for chance of religion. She has also stated about being brain washed. On the point of delay in the FIR, learned counsel submits that the victim was under influence of the accused/applicant. It is after much efforts, the informant to know about the sinister design of the accused/applicant and the FIR was lodged.

5. Countering the argument, learned counsel for the applicant further submits that the accused/applicant was studying in Janta Inter College, prior to the victim, when the victim has taken admission. There is no other report of accused/applicant of pressuring any other girl for change of religion. Hence, submits that a false FIR is lodged.

6. Learned counsel for the informant has produced on the judgement of coordinate Bench of this Court in writ jurisdiction, which was dismissed by order dated 16.04.2026.

7. The scope of ambit of anticipatory bail is encapsulated in three insightful judgments of Hon'ble Supreme Court right from **Gurubaksh Singh Sibbia Vs. State of Punjab** reported in **(1980) 2 SCC 565**, **Siddharam Satlingappa Mhetre Vs. State of Maharashtra** reported in **(2011) 1 SCC 694** and **Sushila Aggarwal and others Vs. State (NCT of Delhi) and another** reported in **(2020) 5 SCC 1**, wherein it is consistently held by Hon'ble Apex Court that while granting anticipatory bail, the Court should considering the application of the applicant to evaluate the threat or apprehension of arrest vis-a-vis the nature and gravity of accusation, criminal antecedent of the accused, false or exaggerated implication, need of custodial interrogation, willingness of the accused to cooperate in investigation and trial and the conduct of the accused and flight risk.

8. Considering this court has taken into consideration the rival submissions made by the parties and is of the view that the accused/applicant has no criminal history. there is nothing on record other than the statement of victim to show the involvement of accused/applicant. Further submits this Court, while considering the

gravity of accusation, **explained criminal history** and apprehension of arrest in the case vis-a-vis low flight risk and assurance of the accused in cooperating with the investigation and trial, is of considered view to grant anticipatory bail.

9. The **applicant-Malishka @ Malishka Fatma** involved in the aforesaid case crime shall appear before the trial court or the Investigating Officer as the case may be within **thirty days** from the date of this order and shall be released on bail on furnishing a personal bond of Rs. 25,000/- with two sureties each in the like amount to the satisfaction of the court concerned with following conditions :-

(i) 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 police officer or tamper with the evidence.

(ii) The applicant shall not pressurize/intimidate the prosecution witnesses.

(iii) The applicant shall remain present, in person, before the trial court on the dates fixed for (i) opening of the case, (ii) framing of charge and (iii) recording of statement under Section 351 of BNSS.

(iv) The applicant shall file an undertaking to the effect that he/she shall not seek any adjournment on the dates fixed for evidence when the witnesses are present in the trial court.

(v) The applicant shall remain present before the trial court on each date fixed, either personally or through his counsel.

10. In case of breach of any of the above conditions, it shall be a ground for cancellation of bail.

11. It is clarified that anything said in this order is limited to the purpose of determination of this bail application and will in no way be construed as an expression on the merits of the case. The trial court shall be absolutely free to arrive at its independent conclusions on the basis of evidence led unaffected by anything said in this order.

12. **The below mentioned directions shall be complied with for expeditious disposal of trial, in case charge sheet is submitted against accused/applicant :-**

12.1 As the investigation is continuing, in the event charge sheet is submitted and cognizance is taken, it would be the duty of the accused/applicant to appear before the trial court or Magistrate concerned as the case may be without waiting for the issuance of summons, within 60 days from the date of cognizance or on the date fixed, which ever is earlier. So that the trial may not be delayed for non execution of summons or processes.

12.2 The District Judge concerned shall direct each Magistrate and Special courts to maintain a register of Anticipatory Bail orders granted by this Court, wherein the details of Anticipatory Bail shall be entered. The dedicated official shall be nominated in each Special court and Magistrate court for maintaining the register.

12.3 The accused/applicant shall provide a copy of the final order of anticipatory bail within 30 days, to the official concerned in whose jurisdiction the case lies and shall provide his complete contact details including the mobile number and E-mail ID (if maintained); any change in detail shall be informed by the applicant.

12.4 On the submission of charge sheet and cognizance taken, the Presiding Officer shall fetch the details of the accused/applicant and the dedicated official shall inform the accused at the given detail.

(Avnish Saxena,J.)

May 4, 2026
Abhishek Sri.