



2026:AHC-LKO:1806-DB

AFR

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

CRIMINAL APPEAL No. - 4153 of 2025

Dr. Abdul Ghaffar

.....Appellant(s)

Versus

State Of U.P. Thru. Addl. Chif Secy. / Prin. Secy.
Home Lko. And 2 Others

.....Respondent(s)

Counsel for Appellant(s) : Azizullah Khan, Mohammad Alishah
Faruqi, Obaidullah, Pranjal Jain

Counsel for Respondent(s) : G.A.

Court No. - 9

**HON'BLE RAJESH SINGH CHAUHAN, J.
HON'BLE PRAMOD KUMAR SRIVASTAVA, J.**

1. Heard Sri Purnendu Chakravarti, learned Senior Advocate, assisted by Sri Azizullah Khan as well as Ms. Aishwarya Saxena, learned counsels for the appellant and Sri S.N. Tilhari, learned AGA for the State-respondents.

2. Sri Anand Kumar Tiwari, Inspector/ Investigating Officer is present in person alongwith the case diary, some relevant extract thereof has been shown to the Court.

3. This criminal appeal has been filed under Section 21 (4) of the National Investigation Agency Act, 2008 against the order dated 19.11.2025 passed by the learned Special Judge, NIA/ Additional Sessions Judge, Court No.3, Lucknow rejecting the anticipatory bail application of the present appellant bearing Anticipatory Bail Application No.9065 of 2025 in Case Crime No.12 of 2023, under Sections 120-B, 419, 420, 467, 468, 471, 370 of IPC and Section 14 of Foreigners Act, Police Station- ATS Gomtinagar, District- Lucknow.

4. Sri Purnendu Chakravarti has submitted that the impugned FIR has been lodged on 11.10.2023 in Case Crime No.12 of 2023, under Sections 120-B, 419, 420, 467, 468, 471, 370 of IPC, Section 14 of Foreigners Act

& Sections 12(1) & 12(2) of Passport Act, 1967, Police Station- ATS Gomtinagar, District- Lucknow against ten accused persons including the present appellant whose name finds place at serial no.9 in the FIR. Accused nos.1 to 7 have been implicated on the basis of their direct role whereas accused nos.8, 9 & 10 have been implicated on the basis of suspicion. He has further submitted that pursuant to the impugned FIR, the investigation commenced by the Investigating Agency and charge sheets have filed in regular intervals. To be more precise, first charge sheet was filed on 05.01.2024; second on 15.03.2024; third on 03.04.2024; fourth on 01.05.2024; fifth on 14.06.2024; sixth on 26.09.2024 and seventh on 24.02.2025 as those charge sheets have been enclosed with this appeal. No charge sheet has been filed against the present appellant and pursuant to the aforesaid charge sheets, the accused persons have been arrested and they have been enlarged on regular bail.

5. Sri Chakravarti has submitted that the appellant came to know that non-bailable warrants were issued against him on 13.03.2024 and on 13.02.2025. Vide order dated 23.09.2025, proclamation under Section 82/83 Cr.P.C. has been issued against the appellant. The aforesaid proclamation order dated 23.09.2025 was assailed by the appellant before this Court by filing Application U/S 482 No.10382 of 2025. The aforesaid application was disposed of by this Court vide order dated 11.12.2025 setting aside the order dated 23.09.2025 remanding back the issue to the Magistrate/ Court concerned i.e. Special Judge NIA/ASJ-3, Lucknow to pass fresh order as per law.

6. Sri Purnendu Chakravarti has further submitted that after lodging the FIR on 11.10.2023, the Investigating Agency did not initiate any steps to obtain search warrant of the premises of the office of the appellant, which is in the name of Sun Shine Health and Social Welfare Society having its office at 163 Phase 3rd J.J. Colony Madanpur Khadar, New Delhi-110076 (hereinafter referred to as "the Society"). He has further submitted that though the Investigating Officer is said to have visited residential premises of the appellant from where he is said to have absconded but if the Investigating Agency was willing to investigate the issue, particularly ascertaining his culpability, the office premises of the Society should have been searched. There may be likelihood that no credible evidence might

have been received by the Investigating Agency against the appellant during investigation and filing seven charge sheets, but such exercise seeking search warrant of the official premises of the appellant has not been undertaken.

7. Since in the proclamation order dated 23.09.2025, warrants and other coercive orders/ steps had been merged and the proclamation order dated 23.09.2025 has been set aside by this Court vide order dated 11.12.2025, so it may safely be presumed that presently, there is no coercive step of any kind whatsoever against the present appellant. Since till filing seven charge sheets against the co-accused persons, no proper steps have been taken by the Investigating Officer to apprehend the appellant, so custodial interrogation of the present appellant would not be required. He has further submitted that after the order dated 11.12.2025 having been passed in the petition under Section 482 Cr.P.C., no application has been filed by the prosecution before the learned Trial Court seeking fresh order, which makes it abundantly clear that the Investigating Agency is not initiating any coercive order against the present appellant. Therefore, Sri Chakravarti has stated that the appellant is ready to cooperate in the investigation and he shall appear before the Investigating Officer as and when his presence would be required and shall provide all materials and evidences, which are within his possession or knowledge, but he may not be taken into custody.

8. *Per contra*, Sri S.N. Tilhari has vehemently opposed the present appeal by submitting that serious allegations have been levelled against the present appellant and he is the main kingpin of the entire syndicate wherein the co-accused persons are indulged in extending the illegal and unwarranted help to Bangladeshi, Rohingya people and those people whose activities are against the nation.

9. Sri Tilhari has stated that even if the proclamation order dated 23.09.2025 has been set aside by this Court but the present appellant may be arrested by the Investigating Agency without any warrant since he has committed the cognizable offence having serious allegations. The accused persons including the present appellant have created a syndicate by opening different accounts taking cash by illegal means and by means of

Hawala transactions from other countries to extend help to intruders and unauthorized persons, who are indulged in anti-national activities and those persons are mainly Bangladeshi persons, Rohingyas etc. Sri Tilhari has shown the relevant extract of supplementary case diary (SCD) no.32 wherein the relevant material has been indicated to the effect that the substantial amount of some Rohingya persons has been transferred to the account of the Society of the appellant. The amount so credited in the account of the Society of the appellant has been utilized to construct some houses, huts (Jhuggi Jhopari) etc. for Rohingya persons in India at certain places. SCD No.32 further reveals the conversation of the present appellant with co-accused Abdul Awwal wherein the reference and purpose of that transaction has been clearly indicated. The present appellant after concluding the conversation with co-accused Abdul Awwal has said to delete all conversations from both the sides, which shows his malafide intention and ulterior motive.

10. Sri Tilhari has also submitted that through secret information and inputs, Team of NIA/ATS came to know in the month of October, 2021 that anti-national activities are being carried out by some persons, more particularly by the so-called respected persons of the Society, and those persons are trying to manage to settle Rohingyas and illegal Bangladeshi persons in India to create unrest and disharmony in the country, so the phone calls of suspected persons were kept under surveillance. On the basis of such surveillance, the Investigating Agency came to know that the present appellant talked with some unauthorized and anti-national persons on 27.10.2021 including co-accused Abdul Awwal, then exercise of investigation was intensified at large scale and on the basis of such investigation, the relevant facts, circumstances and incriminating information came to the notice, resultant thereof, the impugned FIR was lodged on 11.10.2023. There was another phone call of the present appellant on 27.10.2023 with Abdul Awwal and so as to verify such phone calls, FSL report was sought and the Investigating Agency received the FSL report on 02.02.2024. In such FSL report, it has been certified that the present appellant was having talks with not only Abdul Awwal but with other persons also and just after receiving the FSL report dated 02.02.2024, residential premises of the appellant was searched but he was

not present in the house as he was absconding, so non-bailable warrant dated 13.03.2024 was issued. In the meantime, co-accused persons have been arrested and location of the appellant was traced out but to no avail as he was absconding from the clutches of law. Therefore, on 13.02.2025, another non-bailable warrant was issued but to no avail. Thereafter, proclamation order dated 23.09.2025 was issued by the Court concerned, however, the same has been set aside by this Court.

11. Considering the aforesaid submissions of Sri Tilhari, he and the Investigating Officer, who is present in the Court, have been confronted on a point that when culpability of the present appellant came to the notice before lodging the impugned FIR, as to why serious efforts have not been taken by the Investigating Officer(s) to apprehend the appellant as the allegations are so serious related to the safety and security of the country, Sri Tilhari has stated that all possible efforts have been taken, conversation of the appellant with other persons has been sent to the FSL and specific report was received on 02.02.2024. On the basis of aforesaid FSL report, coercive steps have been taken against the appellant. However, the Investigating Officer could not explain the reason as to why he did not file any appropriate application seeking search warrant against the official premises of the appellant where he might have received/collected relevant materials/ evidences. The Investigating Officer could not explain any cogent reason as to why he has not filed any appropriate application before the learned Court concerned after the order dated 11.12.2025 having been passed in the petition under Section 482 Cr.P.C. of the appellant wherein direction was issued to the Magistrate/ Court concerned to pass a fresh order as per law.

12. We put on record our serious displeasure and anguish on the callous and careless approach of the Investigating Agency, particularly the Investigating Officer(s) for not taking appropriate and proper steps to apprehend the present appellant in a issue where not only allegations are related for committing cognizable offences but on account of those offences the security, safety, peace and harmony of the country may likely be jeopardized, therefore, this fact must come to the notice of the Chief Secretary of the State of U.P., Additional Chief Secretary, Home, U.P., Principal Secretary/ Secretary of the Chief Minister of U.P. and

Director General of Police, U.P., Lucknow for information and appropriate action/ orders.

13. Registry of this Court is directed to provide copy of this order to the aforesaid officers within three working days on the top priority basis for compliance.

14. On being confronted Sri Chakravarti on the point as to whether this is a case of false implication of the appellant or without having any material or evidence the investigating agency is harassing him, Sri Chakravarti has stated that even if there are some materials or evidences against the appellant, he will co-operate in the investigation.

15. Considering the aforesaid submission, we don't find that this is a fit case to grant anticipatory bail when the allegations are serious, credible evidences and materials are being collected by the investigating agency and there might be likelihood of custodial interrogation of the appellant.

16. Some more relevant material/ evidence has been shown to the Court by Sri Tilhari but those material/ evidence is not being referred in this order so as to ensure that the pending investigation is concluded independently without being influenced from any observation of this order and if police report is filed, trial is conducted and concluded independently without having any influence of the order of this Court.

17. Certain case laws have been cited by the learned counsel for the parties to strengthen their arguments, which are, briefly, being discussed herein below.

18. Placing reliance upon the judgment and order dated 12.11.2024 of the Apex Court in re; **Criminal Appeal No.4564 of 2024, Asha Dubey v. State of Madhya Pradesh**, Sri Purnendu Chakravarti has stated that since the present appellant is not absconder inasmuch as the coercive steps so taken against the appellant have been set aside, therefore, he may be granted anticipatory bail.

19. Placing reliance upon the judgement and order dated 03.09.2025 of the Apex Court in re; **Petition for Special Leave to Appeal (Crl.)**

No.11234 of 2025, Gursewak Singh v. State of Punjab, Sri Purnendu Chakravarti has submitted that the Hon'ble Apex Court has observed in para-7 of the aforesaid judgement that if the Investigating Agency has not arrested the accused person for the last four years, then that would be sufficient ground to consider the anticipatory bail of the appellant. Sri Chakravarti has stated that in the present case, the FIR has been lodged on 11.10.2023 and more than two years' period has passed but the Investigating Agency has neither arrested the present appellant nor any charge sheet has been filed against him nor any serious effort has been taken to apprehend the appellant.

20. Sri Purnendu Chakravarti has referred para-93 of the judgment of the Apex Court in re; **Siddharam Satlingappa Mhetre v. State of Maharashtra and Others, (2011) 1 SCC 694**, which reads as under:-

"93. The Constitution Bench in the same judgment also observed that a person seeking anticipatory bail is still a free man entitled to the presumption of innocence. He is willing to submit to restraints and conditions on his freedom, by the acceptance of conditions which the court may deem fit to impose, in consideration of the assurance that if arrested, he shall be enlarged on bail."

21. Therefore, Sri Purnendu Chakravarti has stated that the impugned order dated 19.11.2025 passed by the learned Special Judge, NIA/ Additional Sessions Judge, Court No.3, Lucknow rejecting the anticipatory bail application of the present appellant may be set aside and the present appellant may be granted anticipatory bail. The appellant undertakes that he shall cooperate in the investigation proceedings and shall not misuse the liberty of anticipatory bail, if granted by this Court.

22. Sri S.N. Tilhari has cited paragraphs no.19 to 25 and 55 of the judgement of the Apex Court in re; **P. Krishna Mohan Reddy v. The State of Andhra Pradesh, MANU/SC/0737/2025; 2025 SCC OnLine SC 1157**, which read as under:-

"19. Custodial interrogation is qualitatively more elicitation oriented than questioning a suspect who is well ensconced with a favourable order under Section 438. In corruption cases concerning influential persons, effective interrogation of the suspect is of tremendous advantage in disinterring many useful information and also

materials which are likely to be concealed. Success in such interrogation would elude if the suspected person knows that he is well protected and insulated by a pre-arrest bail order during the time he is interrogated. Very often interrogation in such condition would reduce to a mere ritual. The High Court remained alive and very rightly to the apprehension of the investigating agency that the petitioners would influence the witnesses, considering particularly the high position they all held at one point of time.

20. Anticipatory bail to accused in cases of the present nature would greatly harm the investigation and would impede the prospects of unearthing of the ramifications involved in the conspiracy. Public interest also would suffer as a consequence.

21. It was sought to be argued that the petitioners have already joined the investigation and are fully cooperating with the investigating agency and therefore, there is no need for custodial interrogation.

22. The petitioners might have been cooperating with the investigation and they might have been interrogated also by the investigating agency so far but, at the same time, we should not overlook the fact that by grant of anticipatory bail, we may come in the way of the investigating agency if at all it wants custodial interrogation.

23. As held by this Court in Sumitha Pradeep v. Arun Kumar C.K., (2022) 17 SCC 391 that it would be preposterous as a proposition of law to say that if custodial interrogation is not required that by itself is sufficient to grant anticipatory bail. Even in cases where custodial interrogation may not be required the court is obliged to consider the entire case put up by the State, more particularly, the nature of the offence, the punishment provided in law for such offence etc.

24. It is needless to say that for the purpose of custodial interrogation, the investigating agency has to make out a prima facie case at the time when remand is prayed for. Whether any case for police remand is made out or not, it is for the Court concerned to look into.

25. In such circumstances, referred to above, we are of the view that we should not come in the way of the investigating agency at this point of time and the investigation should be permitted to proceed further.

55. Before we close this matter, we make it further clear that if the petitioners are ultimately arrested, remanded and thereafter sent to judicial custody and if any

regular bail application is filed, the same shall be considered on its own merits in accordance with law. It is needless to say that the principles of grant of anticipatory bail substantially differ from the principles of grant of regular bail. It is for the Court concerned to apply the correct principles of law so far as the grant of regular bail is concerned and decide the same accordingly."

23. Having heard learned counsel for the parties, having perused the material available on record and the case laws so cited by the learned counsel for the parties, with great respect with the case laws so cited, we are of the considered opinion that since the allegations so levelled against the present appellant are very serious in nature relating to the security, safety, integrity, harmony and peace of the country, as considered herein above in the preceding paragraphs of this order, *prima facie*, the offences are cognizable in nature; despite knowing the fact that the investigation is going on against the present appellant wherein non-bailable warrants and proclamation were issued against him though the same have been set aside by this Court but the present appellant did not appear before the Investigating Agency; on the basis of allegation, which is based on the material so collected by the Investigating Agency by filing seven charge sheets, there might be possibility of custodial interrogation of the present appellant, therefore, we are not inclined to grant anticipatory bail to the appellant by setting aside the order under challenge.

24. In the case in re; **Gursewak Singh** (supra), the offence related to Section 7 & 7A of the Prevention of Corruption Act and the accused person was not arrested for the last four years but in the present case, the allegations are so serious, as indicated herein above, the benefit of the aforesaid order may not extended to the present appellant as he has not been arrested in the last more than two years. Notably, coercive steps were taken against the appellant to apprehend him issuing non-bailable warrants on 13.03.2024 and 13.02.2025 and proclamation order dated 23.09.2025, which was set aside by this Court on technical ground remanding back the issue before the learned Trial Court to pass a fresh order, strictly in accordance with law.

25. We are respectfully following the observations of the Apex Court in re; **P. Krishna Mohan Reddy** (supra) in view of the facts and

circumstances of the present case.

26. Accordingly, we hereby **dispose of** this criminal appeal finally at the admission stage, without interfering the impugned order dated 19.11.2025 passed by the learned Special Judge, NIA/ Additional Sessions Judge, Court No.3, Lucknow rejecting Anticipatory Bail Application No.9065 of 2025 in Case Crime No.12 of 2023 (supra), giving liberty to the present appellant to appear before the Investigating Officer concerned at the earliest, preferably within a week after receipt of this order to cooperate in the investigation and to provide all relevant materials/ evidences, which are within his possession or knowledge and shall continue to cooperate in the investigation till its conclusion and filing of the police report, if any. It is absolutely upto the Investigating Agency/ Officer to take custody of the appellant, if his custodial interrogation is required inasmuch it should be absolute subjective satisfaction of the Investigating Agency/ Officer to take the accused person into custody, if his custodial interrogation is at all required. In case the present appellant is taken into judicial custody for the purposes of custodial interrogation, he may file his regular bail application before the competent court of law and the same may be decided strictly in accordance with law providing proper opportunity of hearing to the prosecution but with expedition.

(Pramod Kumar Srivastava,J.) (Rajesh Singh Chauhan,J.)

January 9, 2026

RBS/-