

**Court No. - 10**

**Case :- Criminal Misc, Anticipatory Bail Application U/S 438 Cr.P.C.  
No. - 1396 of 2022**

**Applicant :-** Abbas Ansari

**Opposite Party :-** State Of U.P. Thru. Prin. Secy. Home Lko.

**Counsel for Applicant :-** Pranjal Krishna

**Counsel for Opposite Party :-** G.A.

**Hon'ble Dinesh Kumar Singh, J.**

1. The present application under Section 438 Cr.P.C. has been filed by the accused-applicant, Abbas Ansari, a sitting Member of Legislative Assembly of Uttar Pradesh from Mau Assembly Constituency apprehending his arrest in Criminal Case No.54481 of 2020, arising out of Crime No.431 of 2019, Under Sections 420, 467, 468, and 471 IPC and Section 30 Arms Act, Police Station Mahanagar, District Lucknow, pending before the Court of learned Special Additional Chief Judicial Magistrate(MP/MLA Cases), Court No.27, Lucknow after his Anticipatory Bail Application No.6539 of 2022 got rejected by the learned Additional Sessions Judge, Court No.XIX, Lucknow/Special Court, M.P./M.L.A., District Lucknow vide order dated 4.8.2022.

2. Brief facts of the prosecution case as given in the F.I.R. No.431 of 2019, dated 12.10.2019 registered under Sections 420, 467, 468, and 471 IPC and Section 30 Arms Act, Police Station Mahanagar, District Lucknow, are that the accused-applicant was issued Arm License No.1628/P.S. Mahanagar/Lucknow in the year 2012 for a 12 bore DBBL Gun.

3. On an application given to the Joint Commissioner of Police (Licensing Unit), New Delhi, the license bearing No. SDVS/2/2015/1

and UID No.106750021283342015 was transferred and registered at the address of the accused-applicant, Abbas Ansari, S/o Mukhtar Ansari at 111/A/9, Ganpati Niwas, Kishangarh, Vasant Kunj, New Delhi. Accused-applicant, who is claiming himself to be a renowned shooter, got seven more weapons endorsed on the said license, details of which would read as under:-

S.No	Weapon Details	Weapon Number	Weapon Source	Endorsed on
1.	One .12 Bore Gun	DT-03297W	Imported from Beretla	13/08/2013(D M/Lucknow)
2.	One .300 Bore Rifle	8468	M/s Indian Arms corp., Lucknow	24/09/2015
3.	One 30.06 Bore rifle	R/105923	Imported from Slovenia	12/08/2016
4.	One .12 Bore SBBL Gun	TA-013638	Imported from Poljcane Slovenia	19/02/2016
5.	One .357 Bore Pistol	BBGV-728	Imported from Poljcane Slovenia	06/04/2016
6.	One .357 Bore Revolver	174-01661	M/s Shakti Shastraghar, Meerut, U.P.	11/12/2018
7.	One .12 Bore DBBL Gun	P 57382 B	M/s Rajdhani Traders	01/02/2019

4. It is alleged that the accused-applicant got the arm license issued by the District Magistrate, Lucknow transferred to New Delhi without giving any prior information regarding the same to the authorities at Lucknow and did not inform the concerned Police Station, i.e. Mahanagar Police Station, and for that reason, one firearm is shown to be registered concurrently at two States at different arms license having different UIDs. It is further alleged that the accused-applicant deliberately concealed the said information from the authorities, including the police station, with an intention to illegally buy and use the firearms. Further allegation is that the accused-applicant has purchased and got registered several weapons on the said license illegally and in an unauthorized manner. As many as 4431 cartridges were recovered from the possession of the accused-applicant by the police and many of these cartridges are metal jacketed. As a shooter, keeping the metal jacketed cartridges for shooting purposes, is against

the law and against the standard prescribed by the International Shooting Sport Federation (ISSF).

5. Accused-applicant imported one Rifle and six Barrels on 6.8.2016 in violation of Import Permit No.NRAI/IMPP/861/1785/2015, dated 2.9.2015 as the said permission was for one Rifle and one barrel only. The accused-applicant had also imported two barrels i.e. (I) .375 (9.52 mm) Bore No.R/101633 and (ii) .458(11.63 mm) Bore No.R/109355. Out of the above, six Barrels two were of prohibited bores and were not permissible for usage by a shooter as per the then existing Ministry of Home Affairs Notification No.S.O. 1988 (E), dated 4.8.2014. Accused-applicant had also imported one Pistol .357(9.067 mm) Bore No.BBGV-728 with three Spare Barrels i.e. (I) .380(9.65 mm) Bore No.BAPZ-493 (ii) .40 (10.16 mm) Bore No.BBCD-839 and (iii) 22 LR Bore No.957 in April, 2016 from Slovenia without National Rifle Association of India's (NRAI) permit. Out of these, Pistol and Barrels mentioned at serial no.(i) and (ii) were not of permissible in nature for a shooter as per the Notification dated 4.8.2014. Accused-applicant got endorsed one Revolver No.174-01661 of .357 (9.067 mm) on 11.12.2018, which was not permissible for a shooter.

6. For importing one Rifle and six Barrels, the accused-applicant did not use the NRAI permit, but he imported the same in his personal baggage after paying concessional import duty under the provisions of Notification No.147/94-Customs.

7. Learned counsel for the accused-applicant submits that the accused-applicant is targeted being son of Sri Mukhtar Ansari for political reasons as the present dispensation is inimical to and hostile to the family of the accused-applicant. Accused applicant has not committed any offence, but he is being framed, and the State Government and the police are making him criminal by implicating him in several false and frivolous case.

8. Learned counsel for the accused-applicant has further submitted that the accused-applicant was given a firearm license by the District Magistrate, Lucknow for DBBL Gun on 21.9.2012. The said license was valid upto 24.9.2015. The accused-applicant being a shooter, shifted to New Delhi for better practice and training to enhance his shooting skills as he was pursuing his career in sports (shooting). Keeping the aforesaid in mind, the accused-applicant had applied for transfer of his arm license from Lucknow to New Delhi and moved an application before the Joint Commissioner of Police (Licensing Unit), New Delhi. Based on the said application, the Licensing Authority, New Delhi issued a letter dated 10.4.2015 to the District Magistrate, Lucknow for verification of the firearm license issued by him to the accused-applicant. The District Magistrate, Lucknow issued "No Objection Certificate" for the said firearm license dated 4.8.2015.

9. Accused-applicant being a national level sports person (shooting) is entitled to keep seven firearms as per the Government of India's Notification No. S.O. 1988 (E), dated 4.8.2014 issued by the Ministry of Home Affairs, Government of India and two firearms as a normal citizen of India as per sub-section(2) of Section 3 of the Arms Act.

10. The police personnel of Police Station Mahanagar put up a notice dated 22.8.2019 on the door of the residence of the accused-applicant at Lucknow. The accused-applicant gave a detailed reply to the said notice vide letter dated 24.8.2019. Thereafter, Police Station Mahanagar sent a letter to the Joint Commissioner of Police (Licensing Unit), New Delhi on 26.8.2019 for the purpose of seeking verification on certain points. In turn, the Licensing Authority, New Delhi replied to the said letter of Police Station Mahanagar, Lucknow vide letter dated 29.8.2019.

11. Learned counsel for the accused-applicant has further submitted that though the FIR was registered only under Section 420 IPC and

Section 30 of Arms Act, but during investigation, offences under Sections 467, 468 and 471 IPC have been added without there being any iota of evidence for commission of such an offence by the accused-applicant. During investigation, statements of Sri Rajeev Bhatia, Secretary, National Rifle Association of India and Mr. Dhillon, Punjab Rifle Association were recorded by the Investigating Officer, who clearly mentioned that the accused-applicant was a renowned shooter for several years and had been given permission from the National Rifle Association of India to import arms. The Investigating Officer had presumed that the accused-applicant would use the aforesaid arms and ammunition for illegal activities, and he had acquired these weapons them by illegal means. There is no basis for such a presumption. On the basis of the presumption, a person cannot be made accused of offences under Sections 420, 467, 468 and 471 IPC.

12. Learned counsel for the accused-applicant has drawn the attention of this Court to the order passed by a Division Bench of this Court on 19.10.2019 in Writ Petition No.28833 (MB) of 2019 filed by the accused-applicant impugning the FIR. The learned Division Bench of this Court observed that, prima facie, allegations against the accused-applicant were not made out from the contents of the FIR and the authorities were directed not to arrest the accused-applicant in Case Crime No.0431 of 2019, registered under Sections 420, 467, 468 and 471 IPC and Section 30 Arms Act, Police Station Mahanagar, District Lucknow. After the charge sheet was filed, the said writ petition became infructuous, and vide order dated 24.1.2022, the said writ petition got dismissed as infructuous by a Division Bench this Court. However, the accused-applicant was granted liberty, if he was aggrieved by the charge sheet, he could take recourse to the remedy under law as may be available to him.

13. The accused-applicant, thereafter, filed an application under Section 482 Cr.P.C. bearing No.1905 of 2022. The said application is

still pending, and no interim order has been passed in the said application.

14. Learned counsel for the accused-applicant has further submitted that the accused-applicant is a law-abiding citizen. He was not arrested by the Investigating Officer during investigation, and it would violate his fundamental rights guaranteed under Articles 14, 20 and 21 of the Constitution of India, if he is arrested in the aforesaid case. It is further submitted that considering the aforesaid facts, the accused-applicant be granted anticipatory bail in Crime No.431 of 2019, under Section 420, 467, 468 and 471 IPC.

15. On the other hand, Sri Anurag Varma, learned AGA appearing with Mr. V.K. Shahi, learned Additional Advocate General for the State has opposed the anticipatory bail application and submitted that the accused-applicant has as many as seven criminal cases, including the present one, to his credit, which are as under:-

- “1. Case Crime No.689 of 2020, under Sections 120-B, 420, 323, 356, 467, 468, 471, 474 and 477A IPC, Police Station Kotwali, Ghazipur;*
- 2. Case Crime No.236 of 2020, under Sections 120-B, 420, 467, 468, 471, 474 IPC and Section 3 of Public Property (Prevention of Damage) Act, Police Station Hazratganj, Lucknow;*
- 3. Case Crime No.431 of 2019, under Sections 420, 467, 468 and 471 IPC and Section 30 Arms Act, Police Station Kotwali, Ghazipur;*
- 4. Case Crime No.27 of 2022, under Sections 188, 171A IPC and Section 133 of Representation of People Act, Police Station Dakshin Tola, Mau;*
- 5. Case Crime No.95 of 2022, under Sections 188 and 171 IPC, Police Station Kotwali, Mau;*
- 6. Case Crime No.97 of 2022, under Sections 171F, 506, 186, 189, 153A and 120-B IPC, Police Station Kotwali, Mau; and*
- 7. Case Crime No.106 of 2022, under Sections 171H, 188 and 341 IPC, Police Station Kotwali, Mau.”*

16. Learned AGA submits that accused applicant has said in the application that he has no criminal antecedents. He has concealed the true and correct facts from the Court. He got the license transferred

from Lucknow to New Delhi by giving false and incorrect facts. He filed an affidavit on 14.10.2019 before the Licensing Authority, New Delhi that he was residing at 111/A/9, Ganpati Niwas, Kishangarh, Vasant Kunj, New Delhi-110070 since last three years. The affidavit would read as if the said address was his permanent address. The accused-applicant was not the resident of New Delhi, but he used to visit New Delhi occasionally. He had taken the said house on rent which consists of one room, bathroom and small terrace on 5<sup>th</sup> Floor. The landlady in her statement recorded under Section 161 Cr.P.C. has said that the accused-applicant would visit the said address once in two-three months. He was not staying in the said house. The theory being propounded by the learned counsel for the accused-applicant that he shifted his residence to New Delhi to avail better facilities for his shooting practice gets belied completely by the statement of the landlady of the house, address of which was given by the accused-applicant to the Licensing Authority at New Delhi to get his license transferred from Lucknow to New Delhi. By giving false affidavit he got endorsed several weapons to his license, which are not used for shooting practice purposes, but are deadly weapons. He also submits that as many as 4431 cartridges were recovered from the possession of the accused-applicant and these cartridges are not used for shooting purposes.

17. Learned AGA has further submitted that these facts once came to the notice of the Licensing Authority i.e. Joint Commissioner of Police (Licensing Unit), New Delhi, and the Licensing Authority finding the serious nature of multiple violations of the terms and conditions of Arms Act, 1959 and Arms Rules, 2016, had cancelled the License No.SDVS/2/2015/1 issued to the accused-applicant vide order dated 26.8.2021.

18. Learned AGA has also submitted that the accused-applicant did not answer to summons, bailable warrants and then the learned Magistrate had to issue non-bailable warrants against him. Learned

Magistrate has issued thrice non-bailable warrants on 15.7.2022, 27.7.2022 and 11.8.2022, but the accused-applicant could not be arrested and, therefore, the proclamation has been issued under Section 82 Cr.P.C. against him.

19. It has been further submitted that it is well settled law that an absconder/fugitive of law is not entitled for anticipatory bail. The accused-applicant has been avoiding the process of the Court.

20. Learned AGA has relied upon a judgement of the Supreme Court rendered in the case of *State of Madhya Pradesh Vs. Pradeep Sharma*, (2014) 2 SCC 171 to submit that a person against whom proclamation has been issued and the proceedings under Section 82-83 Cr.P.C. have been initiated, is not entitled to the benefit of anticipatory bail.

21. In support of his submission, learned AGA has also relied upon judgments rendered by the Supreme Court in the cases of *Lavesh Vs. State (NCT of Delhi)*, (2012) 8 SCC 730 and *Prem Shankar Prasad Vs. The State of Bihar and others*, AIR 2021 SC 5125. He has also relied upon a judgment of this Court passed in *Bail No.8300 of 2019, Ankur Mishra Vs. State of U.P. and two others*, decided on 1.10.2019.

22. I have considered the submissions advanced by the learned counsel for the parties and perused the record.

23. From the facts as narrated above, it is evident that summons were issued to the accused-applicant on 8.1.2021, 3.2.2021, 2.3.2021, 7.7.2021, 7.9.2021, 8.11.2021, 18.1.2022 by the learned Magistrate, but he failed to appear before the court. Bailable warrants were issued by the learned Magistrate on 4.4.2022, 21.5.2022, but the accused-applicant again did not pay any heed to appear before the court concerned. Thereafter, non-bailable warrants were issued against the



accused-applicant on 15.7.2022, 27.7.2022 and 11.8.2022, but the accused-applicant did not surrender before the court, and the court having no option, issued proclamation under Section 82 Cr.P.C. on 25.8.2022.

24. Considering the serious allegations that accused-applicant got registered his arm license fraudulently and obtained prohibited Barrels, weapons and cartridges in large numbers by taking ground of shooting; and he has purchased weapons and cartridges, which are prohibited in shooting practice and against the Notification dated 4.8.2014 of the Government of India, and also considering the fact that accused-applicant has been avoiding the process of the Court, against whom proclamation has been issued, this Court does not find any ground to grant anticipatory bail to the accused-applicant.

25. Thus, the anticipatory bail application is *rejected*.

26. However, it is provided that if the accused-applicant surrenders before the trial court and applies for regular bail, his bail application should be considered expeditiously in accordance with law.

( Dinesh Kumar Singh, J.)

**Order Date:** 26.08.2022  
Rao/-