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MCRC-9910-2026

IN THE HIGH COURT OF MADHYA PRADESH  
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE VIVEK RUSIA

&amp;

HON'BLE SHRI JUSTICE PRADEEP MITTAL

ON THE 16<sup>th</sup> OF MARCH, 2026MISC. CRIMINAL CASE No. 9910 of 2026*ASHOK GURJAR**Versus**THE STATE OF MADHYA PRADESH*

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Appearance:

Shri Amit Jain - Advocate for the petitioner.

Shri Ritwik Parashar - GA for respondent/State.

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ORDER

*Per. Justice Pradeep Mittal*

This is the first application filed by the applicant under Section 482 of B.N.S.S. for grant of anticipatory bail apprehending his arrest in connection with Crime No.74 of 2025 registered at Police Station - Cyber and High Tech Crimes, Bhopal (M.P.) for the offences punishable under Sections 61(2), 316(4), 319(2), 339, 340(2), 318(4), 318(2), 336(4), 111, 238, 241, and 61 of the BNS and Section 43,66,66-C, 66-D of the Information Technology Act. Sections 35,36 and 42 of the Aadhar (Targeted Delivery of Financial and other subsidies, Benefits and Services) Act and Sections 3, 4 of the M.P Recognized Examinations (Amendment) Act, 1984.

2. As per the prosecution case, it is alleged that such co-accused persons acted as impersonators/solvers and appeared in the written examination on behalf of the original candidates in consideration of monetary gain. After qualifying the



written examination, the concerned candidates themselves participated in and cleared the physical efficiency test and were thereafter selected for the post of Constable (GD) at different places in the State of Madhya Pradesh. During document verification, the authorities allegedly noticed suspicious Aadhaar updates made immediately before and after the examination, which led to the registration of an FIR and arrest of certain candidates. During further enquiry, UIDAI authorities found that some Aadhaar operators had violated prescribed rules and procedures; consequently, a separate FIR bearing Crime No. 74/2025 was registered at Police Station Cyber & Hi-Tech Crime, Bhopal, against such operators and other co-accused persons. During investigation of the said crime, it surfaced that the present applicant is alleged to have acted as a middleman for fraudulently getting the candidate to pass the constable recruitment examination in connivance with other co-accused like solvers, impersonator and aadhar operators. Apprehending his arrest in connection with the said crime, the applicant has approached this Court by filing the present application for grant of anticipatory bail.

3. Learned counsel for the applicant submits that applicant is innocent and has been falsely implicated in the present case. It is also submitted that the present case arises out of the same facts and allegations for which an FIR was already registered as Crime No. 311/2025 at Police Station City Kotwali, District Morena. In that case, the applicant has been enlarged on bail by the High Court of Madhya Pradesh, Bench at Gwalior, vide order dated 08.12.2025 passed in M.Cr.C. No. 52061/2025 in respect of the same offence and identical allegations. The applicant is ready to cooperate with the investigation as and when required, on the above ground the applicant seeks anticipatory bail for the aforesaid offence.

4. On the other hand, learned counsel for State has opposed the prayer for



grant of anticipatory bail on the ground that the offence punishable under Sections 35, 36 and 42 of the Aadhar (Targeted Delivery of Financial and other subsidies, Benefits and Services) Act was not registered against the present applicant on the previous occasion. It is further submitted that this offence is related to manipulation of Aadhar Card. The applicant in conspiracy with other co-accused, solver, impersonator and Adhar operators fraudulently acted as a middleman due to which some candidates got selected in the Police recruitment.

5. Heard learned counsel for the applicant and perused the record.

6. On perusal of case diary it is revealed that the present applicant was not a candidate who secured appointment for himself, but is alleged to have acted as a middleman and conspired with solver/impersonator for getting candidates selected in the constable examination. It is alleged that in furtherance of a criminal conspiracy, the co-accused candidates got their Aadhaar biometrics manipulated and by taking undue advantage of such tampering, thereby facilitated the illegal selection of the candidate in the Police Constable Recruitment, 2023. The Investigating Agency has issued notice to the applicant for the purpose of interrogation and recovery of relevant documents and digital evidence.

7. Once a notice under Section 41A Cr.P.C. (now 35(3) BNSS) is issued and the accused complies by appearing and cooperating, the Investigating Officer (IO) generally cannot arrest them. Arrest is only permitted if the person fails to comply or if the Investigating Officer records reasons that new evidence necessitates arrest.

8. In case of **Satender Kumar Antil Versus Central Bureau of Investigation and Anothers** *2026 LiveLaw (SC) 114*, the Apex court held that a notice under Section 35(3) of the BNSS, 2023 is to be issued to an accused or any individual concerned, qua an offence punishable with imprisonment up to 7 years and, that,



as long as a person to whom a notice under Section 35(3) of the BNSS, 2023 is issued has complied and continues to comply with the terms of the notice then, as per Section 35(5) of the BNSS, 2023, it is not open for the police officer to arrest him unless, for reasons to be recorded, the police officer is of the opinion that he ought to be arrested.

9. In same offence two parallel investigation can not be conducted hence the matter which is subject to investigation at concerning police station is not a part of the investigation only the remaining part of offence is to be investigated which is not punishable maximum up to three years and investigator issued notice to participate in investigation. It is clear that the intention of IO is that he does not want to arrest the accused according to available evidence on record.

10. It is not in dispute that in connection with an earlier FIR arising out of similar allegations, the applicant has been granted bail by the High Court. However, in the present case, additional offences, including those under Sections 35, 36 and 42 of the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act and Section 43,66,66-C, 66-D of the Information Technology Act, have been registered, which were not part of the earlier crime. The offence registered against the applicant is covered by Arnesh Kumar vs. State of Bihar and Anr. reported in (2014) 8 SCC 273, but the police has registered other offences punishable up to 7 years in which accused has already granted regular bail, therefore the possibility of arrest of the applicant cannot be ruled out, hence, the anticipatory bail is **allowed** on the following terms:-

*(i) It is directed that in the event of arrest of the applicant in connection with the aforesaid crime number, he shall be released on bail upon his furnishing*



*personal bond in the sum of Rs.50,000/- (Rupees Fifty Thousand Only) with one solvent surety in the like amount to the satisfaction of the arresting officer.*

*(ii) the applicant shall co-operate with the investigation and make himself available for interrogation by a police officer, as and when required;*

*(iii) he 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;*

*(iv) if the applicant is found involved in any criminal case of the same nature during this bail period, this order granting the benefit of anticipatory bail shall be liable to be cancelled;*

*(v) he shall not leave the territory of India without the prior permission of the Court.*

**(VIVEK RUSIA)**  
**JUDGE**

**(PRADEEP MITTAL)**  
**JUDGE**

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