



2025:AHC-LKO:80838

**HIGH COURT OF JUDICATURE AT ALLAHABAD  
LUCKNOW**

**CRIMINAL MISC. ANTICIPATORY BAIL APPLICATION U/S 482 BNSS No.  
- 687 of 2025**

Neha Singh Rathore @ Neha Kumari

.....Applicant(s)

Versus

State Of U.P. Thru. Prin. Secy. Home Deptt. Lko  
And Another

.....Opposite  
Party(s)

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Counsel for Applicant(s) : Kaustubh Singh, Arpit Verma,  
Shivanshu Goswami

Counsel for Opposite Party(s) : G.A.

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**AFR**

**Reserved on 01.12.2025**

**Delivered on 05.12.2025**

**Uploaded on 05.12.2025**

**HON'BLE BRIJ RAJ SINGH, J.**

1. The present application has been filed seeking anticipatory bail apprehending arrest in Case Crime No.0111 of 2025, under Sections 196(1)(a), 196(1)(b), 197(1)(a), 197(1)(b), 197(1)(c), 197(1)(d), 353(1)(c), 353(2), 302, 152 of Bharatiya Nyaya Sanhita, 2023 and Section 69(a) of the Information Technology Act, 2008, Police Station Hazratganj, District Lucknow.

2. Dr. V.K. Singh, learned Government Advocate assisted by Sri Rajdeep Singh, learned AGA-I for the State has raised a preliminary objection regarding the maintainability of the anticipatory bail application by stating that applicant has filed the present anticipatory bail application directly before the High Court without filing the same first before the Court of Sessions. He further submits that in view of Section 482(1) of the Bharatiya Nagarik Suraksha Sanhita, 2023, the applicant has to apply for anticipatory bail first before the Court of Session and thereafter she may approach the High Court. In support of his contention, he has relied upon the judgment of the Full Bench of this Court rendered in the case of *Ankit Bharti Vs. State of U.P.*, AIR OnLine 2020 ALL 694:(2020) 111 ALL CrI. C 134 (Paragraph-26). He has further submitted that case of the

applicant is not coming within the special circumstances, therefore, the applicant should be relegated to the Court of Session, where she may move an application for anticipatory bail.

3. Replying the aforesaid submissions, Sri Purnendu Chakravarty, leaned Senior Advocate assisted by Sri Shivanshu Gowami, for the applicant has submitted that applicant is the resident of Jandaha, Mashraki, Kaimur (Bhabua), Jandaha, State of Bihar and the present FIR has been registered against her in District Lucknow. In support of his contention he has relied upon Paragraph-26-B of the Full Bench judgement rendered in the case of *Ankit Bharti* (supra) and has submitted that applicant is not residing in District Lucknow, therefore, the circumstances enunciated in the aforesaid case will be applicable in the present case and the applicant may maintain the present anticipatory bail application here before this Court and she should not be relegated to the Court of Session. Relevant portion of Paragraph-26 of the aforesaid judgement is quoted below:

*“The legal position which consequently emerges is that notwithstanding the concurrent jurisdiction being conferred on the High Court and the Court of Session for grant of anticipatory bail under Section 438 Cr.P.C., strong, cogent, compelling reasons and special circumstances must necessarily be found to exist in justification of the High Court being approached first and without the avenue as available before the Court of Sessions being exhausted.*

*Whether those factors are established or found to exist in the facts of a particular case must necessarily be left for the Court to consider in each case.*

*What would constitute "special circumstances" in light of the nature of the power conferred, must also be left to be gathered by the Judge on a due evaluation of the facts and circumstances of a particular case. It would perhaps be imprudent to exhaustively chronicle what would be special circumstances. As noticed above, it would be impossible to either identify or compendiously propound what would constitute special circumstances. Sibbia spoke of the "imperfect awareness of the needs of new situations".*

*It is this constraint which necessitates the Court leaving it to the wisdom of the Judge and the discretion vested in him by statute. Without committing the folly of attempting to exhaustively enunciate what would constitute special circumstances or being understood to have done so, the High Court would be justified in entertaining a petition directly in the following, amongst other, circumstances:-*

*(A) Where bail, regular or anticipatory, of a co-accused has already been rejected by the Court of Sessions;*

*(B) Where an accused not residing within the jurisdiction of the concerned Sessions Court faces a threat of arrest;*

*(C) Where circumstances warrant immediate protection and where relegation to the Sessions Court would not subserve justice;*

*(D) Where time or situational constraints warrant immediate intervention.*

*These and other relevant factors would clearly constitute special circumstances entitling a party to directly approach the High Court for grant of anticipatory bail."*

*As is manifest and evident from the above extract, the learned Judge chose, and in our opinion correctly, to observe that it would be imprudent to exhaustively chronicle what would constitute special circumstances. A further caveat was placed with the learned Judge observing that the aforesaid exposition on the question should not be viewed as an attempt to exhaustively enunciate what would constitute special circumstances. The learned Judge thus left it entirely at the discretion of the Judge considering a petition for anticipatory bail to ascertain whether such special circumstances did in fact exist entitling the applicant to approach the High Court directly. In our considered view the answer as framed to Question 'D' in Vinod Kumar clearly needs no further explanation or elaboration."*

4. After going through the judgment of the Full bench of this Court in the case of *Ankit Bharti* (supra), one fact is to be considered by this Court that the FIR was lodged at Lucknow, whereas the applicant is the resident of Jandaha, Mashraki, Kaimur (Bhabua), Jandaha, State of Bihar. The FIR indicates the present address of the applicant as Heedi Pakadia, District Ambedkar Nagar, Uttar Pradesh. It is thus clear that after looking into the FIR as well as the affidavit of the applicant, it is clear that she is not the resident of the Lucknow and in view of Point No.26(B) of the Full Bench judgement of this Court in the case of *Ankit Bharti* (supra), this Court holds that the anticipatory bail application filed by the applicant is maintainable before this Court.

5. Now, this Court proceeds further on the merit of the case. It is the case of the applicant that she has been falsely implicated in the FIR dated 27.04.2025 lodged by opposite party no.2 under Sections 196(1)(a), 196(1)(b), 197(1)(a), 197(1)(b), 197(1)(c), 197(1)(d), 353(1)(c), 353(2), 302, 152 of Bharatiya Nyaya Sanhita, 2023 and Section 69(a) of the Information Technology Act, 2008.

6. The prosecution story as narrated in the FIR is that one Abhay Pratap Singh @ Nirbheek has alleged that it is known that on 22nd April 2025, in Pahalgam, Jammu and Kashmir, especially Hindu tourists were shot by a Pakistan-backed terrorist organisation after asking their religion, in which 26 tourists died a painful death. This cowardly act of the terrorists has

generated a feeling of anger against Pakistan in the whole of India. Hurt by this attack on the soul of the country in Pahalgam, all the countrymen and leaders of all opposition parties are unanimously demanding the Indian Government to take the strictest revenge for this cowardly attack. The Government of the country is preparing to take revenge from Pakistan, in the sequence of which the Indian Government has imposed many strict restrictions on Pakistan along with stopping the Indus Water Treaty. In such a situation, folk singer and so-called poetess Neha Singh Rathore, wife of Himanshu Singh, resident of village- Heedi Pakadia, District Ambedkar Nagar, through her Twitter handle Neha Sing Rathore@nehafolksinger, is continuously making several objectionable posts to adversely affect the national integrity, to incite people to commit crimes against each other on the basis of religion and caste sharing videos on social media. Neha Singh Rathore has been continuously speaking anti-national things about the Pahalgam attack, to disturb the mutual harmony of two communities, to disrupt peace and order, and objectionable posts are being made continuously from her Twitter handle. All these anti-India statements of Neha Singh Rathore are continuously going viral in Pakistan and Neha Singh Rathore is being praised in Pakistan. All the anti-national statements of Neha Singh Rathore are being used against India in the Pakistani media and India is being questioned by our enemy country. In such a situation of crisis, due to Neha Singh Rathore's continuous statements against India, the honor and respect of the country's poet community as well as the entire country of India is being violated. Objectionable post made by Neha Singh Rathore on her Twitter handle Neha Singh Rathore @nehafolksinger. Details of URL IDs of the posts of the applicant have also been mentioned in the FIR.

7. Sri Purnendu Chakravarty, learned Senior Advocate, for the applicant has submitted that the FIR has been lodged mainly on the basis of one video clip containing the utterances made by the applicant on her Twitter Account. He has further submitted that none of the offences with the applicant is sought to be prosecuted, can be said to have been established even prima facie. Counsel for the applicant has submitted that offence under Section 152 of Bharatiya Nyaya Sanhita, 2023 is not made out

against the applicant and in this regard he has submitted that the Hon'ble Supreme Court in *Writ Petition (C) No.682 of 2021, S.G. Vombatkere Vs. Union of India*, vide order dated 11.05.2022 has observed that all pending trials, appeals and proceedings with respect to the charge framed under Section 124A of IPC be kept in abeyance. At the same time, counsel for the applicant has relied upon the judgment of the Rajasthan High Court rendered in *S.B. Criminal Misc(Pet.) No.5005 of 2024, Tejender Pal Singh @ Timma Vs. State of Rajasthan and another*, decided on 16.12.2024 (Paragraph-13) and has submitted that the offence of sedition under Section 124-A IPC has though been done away in the Bharatiya Nyaya Sanhita, but a new provision in Section 152, somewhat similarly worded, has been brought in by the law makers in Parliament. It criminalises acts or attempts that incite secession, armed rebellion, or subversive activities, or encourage separatist sentiments that threaten the country's stability. In the aforesaid case, it has been observed that provision of Section 152 of Bharatiya Nyaya Sanhita has to be read and meant and interpreted in a way that it mandatorily requires that the act must be committed purposely or knowingly i.e. Mens Rea (Intent).

8. Learned Senior Counsel for the applicant has further invited the attention of the Court towards the provision of Section 159 of Bharatiya Nyaya Sanhita and has submitted that Section 159 of Bharatiya Nyaya Sanhita will be invoked against a person who is abetting mutiny, or attempting to seduce a soldier, sailor or airman from his duty, but it cannot be invoked against the applicant. He has further submitted that Section 159 of Bharatiya Nyaya Sanhita has been invoked during investigation though there is no offence made out under the said provision against the applicant.

9. In support of his contention, learned Senior Counsel for the applicant has relied upon the Full Bench judgement of the Bombay High Court rendered in the case of *Anand Chintamani Dighe and another Vs. State of Maharashtra*, (2001) SCC OnLine Bom. 891 (Paragraph-19) and has submitted that the guarantee of the freedom of speech and expression under Article 19(1)(a) of the Constitution of India should be read in the present perspective and voicing against the act of the Government does not mean that the applicant has committed the offence against the nation.

10. Counsel for the applicant by relying upon the judgement of the Hon'ble Supreme Court rendered in the case of ***Imaran Pratapgadhi Vs. State of Gujarat and another***, (2025) SCC OnLine SC 678 (Paragraphs-38 and 39) has submitted that without freedom of expression of thoughts and views, it is impossible to lead a dignified life guaranteed under Article 21 of the Constitution of India. He has further submitted that twitter handle used by the applicant guarantees the freedom of expression and whatever she said, it is her dissenting voice against the Government and the same must not be treated for charge of sedition.

11. On the other hand, Sri V.K. Singh, learned Government Advocate assisted by Sri Rajdeep Singh, learned AGA-I for the State has vehemently argued that applicant had challenged the FIR before this Court by way of filing Criminal Misc. Writ Petition No.3852 of 2025, Neha Singh Rathore @ Neha Kumari Vs. State of U.P. and 2 others, and after considering the arguments of counsel for the applicant as well as by the State, this Court passed a detailed judgement and order dated 19.09.2025 dismissed the said writ petition with the observation that the investigation is going on and the applicant will cooperate in the proceedings. Further direction was also issued that applicant will appear before the Investigating Officer on 26.09.2025. However, the applicant filed Special Leave to Appeal (Crl.) No(s).16250 of 2025, Neha Singh Rathore @ Neha Kumari Vs. State of Uttar Pradesh and others, against the judgement and order passed by a Division Bench of this Court in Criminal Misc. Writ Petition No.3852 of 2025 (supra) dated 19.09.2025, which was disposed of by the Hon'ble Supreme Court on 13.10.2025. For the sake of convenience, the order passed by the Hon'ble Supreme Court on 13.10.2025 is quoted below:-

*“1. After hearing learned counsel appearing for the petitioner, at this stage, we are not interfering on the argument that charge of mutiny and of other provisions under Section 196(1)(a), 196(1)(b), 197(1)(a), 197(1)(b), 197(1)(c) 197(1)(d), 353(1)(c), 353(2), 302, of the Bhartiya Nyaya Sanhita and Section 69(a) of the IT Act, however, we are not inclined to entertain the special leave petition. Accordingly, the special leave petition is dismissed.*

*2. In the facts, we grant liberty to the petitioner to raise all these issues at the stage of framing of the charge or by applying before the Court seeking discharge at appropriate stage in case the charge sheet has been filed. We make it clear that this Court has not expressed any opinion on the merits of the case, we have only declined*

*to entertain the special leave petition.*

*3. Pending applications, if any, shall stand disposed of.”*

12. Learned Government Advocate has further submitted that the Special Leave Petition preferred by the applicant was disposed of with liberty to the applicant to raise all these issues regarding the offences as mentioned in the FIR at the stage of framing of the charge or by applying before the court seeking discharge at appropriate stage in case the charge sheet has been filed. He has vehemently submitted that this Court may not appreciate the facts and legal aspects of the present case in view of the judgement of the Hon'ble Supreme Court, wherein it is provided that applicant has to raise all these issues at the time of framing of the charge. The direction issued by the Hon'ble Supreme Court is binding upon the High Court under Article 141 of the Constitution of India and this Court cannot entertain the anticipatory bail application. The applicant has to cooperate in the inquiry, but she is not cooperating in the inquiry.

13. Learned Government Advocate has further submitted that after rejection of the Special Leave Petition by the Hon'ble Supreme Court, the applicant has to appear before the Investigating Officer, but she is avoiding the police investigation; thus, she is not entitled for any relief. It has been submitted that Division Bench of this Court has already observed in Criminal Misc. Writ Petition No.3852 of 2025 that applicant has to cooperate in the investigation before the Investigating Officer. However, the written instructions dated 27.11.2025 indicate that in spite of notice given to the applicant, she is not cooperating in the proceedings. The relevant portion of the written instructions dated 27.11.2025 sent by the Station House Officer, Police Station Kotwali, Hazratganj, District Lucknow is quoted below:-

"अभियोग उपरोक्त में अभियुक्ता नेहा सिंह राठौर को गिरफ्तार किये जाने हेतु एक पुलिस टीम का गठन किया गया, अभियुक्ता नेहा सिंह राठौर के गिरफ्तारी के प्रयास जारी है। अभियुक्त नेहा सिंह राठौर द्वारा मा० उच्च न्यायालय खण्डपीठ लखनऊ में योचित की गयी याचिका क्रि० मि० रिट पिटीशन नं०-3852/2025 में सुनवायी के उपरान्त मा० उच्च न्यायालय द्वारा दिनांक 19/09/2025 को निरस्त करते हुए याचिकाकर्ता/ अभियुक्ता नेहा सिंह राठौर उपरोक्त को अभियोग उपरोक्त की विवेचना में सहयोग प्रदान करने एवं मुझ विवेचक के समक्ष दिनांक 26/09/2025 को समय 11.00 बजे उपस्थित होने के निर्देशि दिये गये थे परन्तु याचिकाकर्ता मुझ विवेचक के समक्ष बीमारी का बहाना बनाते हुए उपस्थित नहीं हुई, मा० उच्च न्यायालय द्वारा निर्गत आदेश की अवहेलना करते हुए मा० उच्च न्यायालय खण्डपीठ लखनऊ द्वारा निरस्त की गयी याचिका 3852/2025 के विरोध में मा० उच्चतम न्यायालय नई दिल्ली में दिनांक 25/09/2025 में याचिका SLP (Cri) नं०-16250/2025

योजित की गयी। अभियोग उपरोक्त में वांछित अभियुक्ता नेहा सिंह राठौर के गिरफ्तारी के प्रयास जारी है। अभियुक्ता नेहा सिंह राठौर उपरोक्त के मा० न्यायालय से अभी तक गिरफ्तारी वारण्ट निर्गत नहीं कराया गया है। अभियुक्ता नेहा सिंह राठौर को गिरफ्तार किये जाने हेतु जनपद लखनऊ में निवास स्थान सेलीब्रिटी ग्रीन टावर फ्लैट सं. 904 नियर लूलूमॉल सुशान्त गोल्फ सिटी जनपद लखनऊ की गिरफ्तारी हेतु उनके हाल पता सेलीब्रिटी ग्रीन टावर फ्लैट सं. 904 नियर लूलूमॉल सुशान्त गोल्फ सिटी जनपद लखनऊ के पते पर दबिश दी गयी एवं मिलने वाले सम्भावित स्थानों पर तलाश किया गया परन्तु अभियुक्ता नेहा सिंह राठौर के बारे में कोई जानकारी प्राप्त नहीं हो सकी। अभियुक्ता नेहा सिंह राठौर निरन्त अपना निवास स्थान बदल रही है। अभियोग उपरोक्त की विवेचना में किसी भी प्रकार का सहयोग प्रदान नहीं कर रही है। मा० उच्च न्यायालय द्वारा दिनांक 19/09/2025 में निर्गत आदेश की भी अवहेलना की जा रही है। अभियोग उपरोक्त में साक्ष्य संकलन के दौरान विभिन्न तिथियों में सी०डी० संख्या-1 से सी०डी० संख्या-28 दिनांक 26/11/2025 तक किता की जा चुकी है  
””

14. Learned Government Advocate has further submitted that after going through the version of the FIR as well as the contents of the tweets posted by the applicant, offence is made out against the applicant. For the sake of repetition, Tweet Nos.15, 16 and 34 are quoted below:-

**“Tweet No.15**

कश्मीर में आतंकी हमला हुआ और उसके फौरन बाद मोदीजी ने आज बिहार में रैली कर दी... बिहार के मंच से ही पाकिस्तान को धमका दिया और जनता ने भी ताबड़तोड़ तालियाँ पीट दीं...

जो लोग भी मोदीजी की पॉलिटिकाप और बिहार की हालत को जानते हैं, उन्हें खूब समझ में आ रहा है कि पाकिस्तान को धमकी देने के लिए मोदीजी को बिहार क्यों आना पड़ा।

उन्हें बिहार इसलिए आना पड़ा... ताकि बिहार की जनता से राष्ट्रवाद के नाम पर वोट बटोरा जा सके... और बिहार की जनता के मुद्दों को फिर से साइडलाइन किया जा सके... अब मोदीजी और उनके साथ वालों को काम के नाम पर तो वोट मिलना है नहीं... क्योंकि काम तो हुआ ही नहीं है... और भ्रष्टाचार इतना हुआ है कि ईमानदारी से चुनाव हो तो बहुतों की जमानत जब्त हो जाये,

बिहार चुनाव में उन्हें या तो हिंदू-मुसलमान के नाम पर वोट मिल सकता है या भारत-पाकिस्तान के नाम पर.... तीसरा कोई रास्ता नहीं है... और ये लोग बाकी दोनों रास्ते अख्तियार करेंगे,”

**Tweet No.16**

”आतंकवादियों को ढूँढने और अपनी गलती मानने की बजाय भाजपा देश को युद्ध में झोंकना चाहती है.... भाजपा देश के हज़ारों सैनिकों की जान जोखिम में डालना चाहती है.”

**Tweet No.34**

”जब कलमा पढ़ने से इनकार करने पर गोली मार ही दी गई तो ये किस्सा मीडिया को किसने बताया? मृतकों में एक नाम सईद हुसेन शाह का भी है. क्या सईद ने भी कलमा पढ़ने से इनकार किया था? अपने दिमाग लगाइये... वो मत सोचिये जो भाजपा चाहती है.”

15. Learned Government Advocate has further submitted that twitter account of the applicant is widely circulated in the world especially in Pakistan and so many posts have been received during investigation from Pakistan supporting the tweets posted by the applicant. He has submitted



that timing of the tweets is very relevant when the unfortunate incident of Pahalgam took place on 22.04.2025 and 26 tourists were brutally killed by the terrorists after identifying them as Hindus. The security and integrity of the country was at the threat at that time and the Government was taking all possible steps to control the situation, but the applicant started making the aforesaid tweets without looking into the fact that situation was so sensitive and it was not warranted to tweet such words, which could have incites the very sentiments of the people of the country. It appears that applicant has got malice intention against the Bharatiya Janta Party and its leader like Prime Minister. The applicant also tried to create hatred between the two communities i.e. Hindu and Muslim, so that basic fabric of the country could have been disturbed. He has submitted that tweets of the applicant are not liable to be protected in the light of Article 19(1)(a) of the Constitution of India and all the judgements relied upon by the counsel for the applicant will not be applicable in the present case particularly after passing of the order by the Hon'ble Supreme Court disposing of the Special Leave Petition filed by the applicant, wherein the Hon'ble Supreme Court has observed that applicant may raise her grievances regarding the issue at the time of framing of the charge. Therefore, the applicant has no option, but to cooperate in the inquiry.

16. Heard learned counsel for the parties and perused the record.

17. It is the case of the complainant that applicant through her twitter handle Neha Singh [Rahore@nehafolksinger](https://twitter.com/Rahore@nehafolksinger) has continuously made several objectionable posts to adversely affect the national integrity to incite people to commit crimes against each other on the basis of religion and caste sharing videos on social media. The applicant further commented on her twitter handle that Bharatiya Janta Party is not searching the terrorists, rather it is creating atmosphere so that country will go in war. The twitter of the applicant further mentions that immediately after Pahalgam attack in Kashmir, Modiji did political rally in Bihar.

18. In the present case, the FIR has been lodged on 27.04.2025 and more than seven months have passed, but the applicant is not cooperating in the investigation. So far the anticipatory bail is concerned, although Article

19 of the Constitution of India gives right of freedom to all citizens, but the same is subject to reasonable restriction for public order, decency or morality. The applicant had made certain tweets at the crucial time when the unfortunate Pahalgam incident took place on 22.04.2025 and the case diary as well as FIR goes to show that tweets posted by the applicant are against the Prime Minister of India. Name of the Prime Minister of India has been used in disrespectful manner.

19. After going through the record and the written instructions dated 27.11.2025, I find that the applicant is not cooperating in the investigation. Apart from it, Criminal Misc. Writ Petition No.3852 of 2025 filed by the applicant challenging the FIR has been dismissed by a Division Bench of this Court on 19.09.2025 with a direction that applicant will cooperate in the inquiry and will appear before the Investigating Officer. The other important fact to be noted that applicant preferred Special Leave Petition challenging the judgement and order passed by this Court, which was also not interfered with by the Hon'ble Supreme Court and a direction was issued that applicant may file an application for discharge at the appropriate stage.

20. The Hon'ble Supreme Court has observed in the Special Leave Petition filed by the applicant that after hearing counsel appearing for the petitioner at that stage, no case for interference was made for quashing the charge of mutiny and other provisions under Sections 196(1)(a), 196(1)(b), 197(1)(a), 197(1)(b), 197(1)(c), 197(1)(d), 353(1)(c), 353(2) and 302 of Bharatiya Nyaya Sanhita, 2023 and Section 69(a) of the Information Technology Act, however, the Hon'ble Supreme Court did not incline to entertain the Special Leave Petition and granted liberty to the petitioner to raise all these issues at the stage of framing of the charge. It is thus, clear that the Hon'ble Supreme Court has taken note of the fact that the present FIR challenged by the applicant before the Division Bench of this Court does not have merit in the case. The observation of the Hon'ble Supreme Court "We grant liberty the petitioner to raise all these issues at the stage of framing of the charge" is binding upon this Court under Article 141 of the Constitution of India and this Court cannot give any opinion that the charges of mutiny and charges under Section 152 of Bharatiya Nyaya Sanhita, 2023 coupled with the other offences

mentioned in the FIR are made out or not.

21. In view of the aforesaid discussion, no case for anticipatory bail is made out. It is accordingly *rejected*. However, it is open for the applicant to seek legal remedy as may be available under law.

**(Brij Raj Singh,J.)**

**December 5, 2025**  
Rao/-