

Present:- Sri Sutirtha Banerjee
J.O Code : WB 00980
Additional Sessions Judge, Basirhat

Order No. 2 Dated 08/04/2026

This is an application u/s 483 of the BNSS filed on behalf of petitioners 1) Rina Bibi and 2) Monoara Bibi in connection with Haroa P.S. Case No. 57 dated 10/02/2026 u/s – 85/80(2)/103(1)/316(2)/3(5) of BNS and section 4 of D.P.Act vide G.R. no. 586/26 is taken up for hearing.

At the very outset, Learned Advocate for the petitioner submits before this Court that no application under section 482/483 BNSS with respect to this accused is pending/has been rejected by any superior Court.

Ld. Lawyer for the defacto-complainant files a petition raising objection against such bail prayer filed by the accused persons.

IT is submitted that the accused – the mother-in-law and married sister-in-law of the deceased- have been falsely implicated in the case, and allegations are chiefly against the husband, who is in custody. Contending that the accused are both ladies and have undergone considerable incarceration, the Ld. advocate for the accused prayed for bail on any condition.

Ld. Lawyer for the defacto-complainant files a petition along with vakalatnama raising objection against such bail petition filed by the accused submitting that accused persons were very much involved in alleged offences.

Ld. P.P-in -Charge opposes the bail prayer of the present petitioners but left the matter to discretion of the Court.

Heard both sides. Considered. Perused the record, F.I.R. and case diary.

Pages in case diary not numbered leaving open chances of alteration/manipulation.

This is not an isolated incident that has come to notice of the Court and needless to say is a dangerous process being adopted by the I.O.s of this police district which makes fair adjudication difficult and the Court is inclined to draw adverse inference for such malicious and mischievous acts of the I.O.s which could put the Courts adjudicating cases in false position as pages in case diary could be tampered with at will.

The I.O. concerned is directed to appear before the Court on within 7 days and explain why matter shall not be referred to the Superintendent of Police, Basirhat Police District recommending appropriate action against him. Let an extract copy of this order be sent to the I.O. concerned for his information.

Petitioners are mother in law and married sister in law of deceased wife who is alleged to have been killed at her matrimonial home. There are allegations of matrimonial cruelty and torture against the present Petitioners, no doubt, but going

by the materials in the case diary, particularly statements recorded on 10/2/2026(on which I have put my dated initials) and the surathal report, the prime allegation is against the accused husband, who is in custody.

I have traversed the entire gamut of this case and the materials exposted in the CD and after such exercise I find that further confinement of the present Petitioners in judicial custody is not an indispensable necessity for the unhindered investigation in the case. The accused persons are in custody for a considerable period of time and sufficient opportunity has been given to the investigating officer to develop the probe.

It is also apposite to add that the Hon'ble Supreme Court in **Dr. Vinod Bhandari v/s. State of Madhya Pradesh AIR 2015 SCW 1052**, has held:-

“12. It is well settled that at pre-conviction stage, there is presumption of innocence. The object of keeping a person in custody is to ensure his availability to face the trial and to receive the sentence that may be passed. The detention is not supposed to be punitive or preventive. Seriousness of the allegation or the availability of material in support thereof are not the only considerations for declining bail.”

Thus mere presence of prima-facie materials must not be the sole criteria of rejection of the bail prayer, especially when bail has been promulgated to be the rule and jail the exception. It is also apposite to add that detention at this stage is not punitive. There is no material to conclude that the accused persons have propensity to win over the witnesses or tamper with the evidence if released on bail. Hence based on the above delineations and fact that both Petitioners are ladies, the prayer for bail stands allowed.

Accused persons may hence find interim bail of Rs. 5,000/- each with one surety each of like amount subject to satisfaction of Ld. A.C.J.M. Basirhat with further condition to co-operate with investigation, meet I.O. if called for and not directly or indirectly making any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade them from disclosing such facts to the Court.

Ld. A.C.J.M., Basirhat shall be at liberty to confirm the interim bail granted after submission of charge-sheet subject to accused abiding by imposed conditions and in absence of any adverse report.

The G.R. case record along with a copy of order be sent to the Ld A.C.J.M., Basirhat at once.

CD be returned also.

The instant CMC is thus disposed of.

Dictated & corrected by me

Addl. Sessions Judge,Basirhat

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