

In the Court of the Ld. Sessions Judge, South 24-Parganas, Alipore

Criminal Misc. Case No. 520 of 2026

Present : Sri Souvik De (WB01069), Sessions Judge I/c, Alipore

Order No.03, dated 23.02.2026

An application under section 483 BNSS, 2023 (sec.439 of the Cr.P.C.) filed by the accused/petitioner namely, **Mainak Kumar Das**, in connection with **Patuli Women P.S. Case No. 01/2026 dated 20.01.2026 u/s 69/117(2)/316(2) BNS**, is taken up for hearing.

Learned Advocate for the accused/petitioner submits that no such application u/s 483 BNSS, 2023 (sec.439 of the Cr.P.C.) is either rejected or pending before the Hon'ble High Court prior to this application.

Ld. lawyer for the accused/petitioner has submitted that the present accused/petitioner has been in a longstanding live-in relationship with the defacto complainant, which had started way back in the year 2017. It has been further submitted that when the relationship between the accused/petitioner and the victim turned sour, this case has been initiated on certain specific false pretexts. He has also submitted that the present accused/petitioner has initiated a case against the victim and her mother prior to the institution of this case. He has submitted that having regard to the present trend, so set forth by the Constitutional Courts, as also having regard to the factual contours of this case, the present accused/petitioner deserves the latitude of bail as the investigation against him has well progressed.

On the other hand, Ld. P.P.-in-charge produced the case diary and by referring to various pages of the same, raised strong objection against the instant bail application so filed.

IO is present.

A bunch of Ld. Senior Counsels for the defacto complainant are present and have submitted that this is a case which deserves no lenity to the accused/petitioner, as the present accused/petitioner has duped the victim for over a pretty long period of time. They have further submitted that some private photographs of her are with the accused/petitioner and they fear their disclosure. They have also submitted that the victim being duped by the accused/petitioner for over a pretty long period of time, the present bail application of the accused/petitioner deserves rejection.

Heard both sides.

Perused the case diary.

It is limpid from the CD that the accused/petitioner and the victim are adults and they were in a consensual live-in relationship, since long. The written complaint, the judicially recorded statement and the other materials in the CD, reveal the same. From the statement so recorded judicially, I find certain bizarre aspects, which I do not want to trek, having regard to the stage of investigation.

The Hon'ble Supreme Court of India in **Samadhan vs. State of Maharashtra**, as reported in **2025 Live Law SC 1137**, has observed that

every sour relationship converted to rape not only trivializes the seriousness of the offence but also makes it a misuse of the said section. The Hon'ble Supreme Court of India in **Prasanth vs. State of NCT of Delhi**, as reported in **2024 Live Law Page 904**, has observed that consensual relationship cannot be given a criminal colour. The Hon'ble Apex Court in **Ravish Singh Rana vs. State of Uttarakhand & anr.**, as reported in **2025 Live Law SC 540**, has observed that when a couple continues in a live-in relationship for a long period, there is a presumption that they did not want to marry and accordingly, no Section 376 IPC is made out. The Hon'ble Apex Court in another decision between **Biswajyoti Chatterjee vs. State of West Bengal & anr.**, as reported in **2025 Live Law SC 404**, has categorically observed that it is a worrying trend of consensual relationship turning into a rape allegation.

The principle is that – bail is a rule and jail is the exception and that has been recognized through the various pronouncements of the Hon'ble Apex Court. This principle is on the touch stone of the Article 21 of Indian Constitution. Of late, in **Nikesh Tarachand Shah V/s. Union of India (2018) 11 SCC 1** Hon'ble Apex Court of India reiterated the same.

The grant and refusal to grant bail lies within the discretion of the Court, but at the same time right to bail is not to be denied merely on the basis of sentiment. The primary purpose of bail of a criminal case is to relieve the accused of imprisonment, to relieve the state of a burden of keeping him, pending the trial and at the same time to keep the accused constructively in custody of Court. This principle has been observed by the Hon'ble Apex Court in **Satendar Kumar Antil V/s. CBI (2022) 10 SCC 51**.

In **Arnab Manoranjan Goswami V/s. State of Maharashtra (2021) 2 SCC 427**, Hon'ble Apex Court has observed that human liberty is a precious constitutional value, which is undoubtedly subject to regulation by validly enacted legislation. It has also been observed that misuse of the criminal law is a matter of which the Hon'ble High Court and the Lower Courts in this country must be alive. Courts must be alive to the need to safeguard the public interest in ensuring that the due enforcement of the criminal law is not obstructed. The fair investigation of crime is an aid to it. It has further been observed by the Hon'ble Apex Court in **Arnab Manoranjan Goswami (Supra)** that it is the duty of Courts across the spectrum – the District judiciary, High Courts, Supreme Court – to ensure that criminal law does not become a weapon for the selective harassment of citizens. The Hon'ble Court further observed that Courts should be alive to both ends of the spectrum – the need to ensure the proper enforcement of criminal law on the one hand and the need on the other, of ensuring that law does not become a ruse of targeted harassment. Liberty across human eras is as tenuous as tenuous can be.

In **Satendar Kumar Antil (Supra)** the Hon'ble Apex Court held that criminal Courts in general are the guardian angels of liberty. It has been held that liberty, as embedded in the Code, has to be preserved, protected and enforced by the Criminal Courts. Hon'ble Apex Court has further observed that any conscious failure by

Criminal Courts would constitute an affront to liberty. The ratio of said citation also speaks that it is the pious duty of the Criminal Courts to uphold the constitutional thrust with the responsibility mandated on them by acting akin to a high priest.

Having regard to all the observations of the Hon'ble Supreme Court of India and the factual matrix of this case, so arbitrated above, I think the accused/petitioner should get the lenity of bail, but with certain stringent riders.

The accused/petitioner shall be released on bail upon furnishing bond of **Rs.50,000/- with two sureties of Rs.25,000/- each, out of which one must be local surety and another Court registered surety**, subject to the satisfaction of the Ld. CJM, Alipore.

The local surety should submit cash certificate purchased from any RBI regulated nationalized bank after the date of this order.

The accused/petitioner shall comply with the condition so enumerated under section 480(3) of B.N.S.S.

If on bail, the accused/petitioner shall not enter into the locality where the victim resides and shall not interfere with the life and liberty of the victim in any manner whatsoever.

The accused/petitioner shall meet the IO on every evening from 6 p.m. to 8 p.m. for the next three months or till submission of charge-sheet, whichever is earlier.

The accused/petitioner shall not leave the jurisdiction of this Court until further order from this end.

For the purpose of monitoring the movement of the accused/petitioner, **the accused would give his mobile number to the IO and should ensure that the mobile number be kept in working condition and operational at all times.**

The accused would drop a pin on google map to ensure that his exact locations are available with the IO at all times.

Accused is also directed to cooperate with the investigation.

The Criminal Misc. Case is thus disposed of accordingly.

Return the C.D.

D/c by me

Sd/- S. De
Sessions Judge, I/c

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Sessions Judge, I/c