

Cr. Misc. Case No. 455/2026
CNR No. WBHW0100 1217 2026
Present: Sri Mainak Dasgupta
Sessions Judge, In-charge, Howrah.
J.O. Code – WB01070

Order No.03 dated 17.03.2026.

The application u/S.482 BNSS arising out of Belur P.S. Case No. 14 of 2026 dated 28.01.2026 u/Ss. 85/316(2)/3(5) of BNS filed by the accused/ petitioner namely, Arvind Prasad, is taken up for hearing.

The petitioner has stated on affidavit that no application has been filed or rejected before or by the Hon'ble High Court till date.

Heard Ld. Advocate for the accused/petitioner who submitted that the allegations against the petitioner arises out of matrimonial differences and the allegations have been exaggerated only to keep the present petitioner in custody. It was further submitted that in-laws of the victim has already been granted anticipatory bail by this Court. Ld. Advocate went on to further submit that considering the direction of the Hon'ble Apex Court as regards the offences of similar nature, the prayer deserves to be allowed. With such submissions, Ld Advocate for the accused/petitioner asserted the prayer for anticipatory bail.

Ld.P.P. has raised vehement objections to the prayer and submitted that the marriage between the petitioner and the victim took place on 02.12.2024 and within such short period cruelty was inflicted upon the de facto complainant and the streedhan articles of the de facto complainant have also been misappropriated.

Ld. Advocate for the de facto complainant is also present and has filed Vakalatnama and a written objection to the prayer for bail.

Perused the TCR and CD.

Considered the submission made by the Ld. Advocate for the accused and the Ld Public Prosecutor.

REASONS

As regards pre arrest bail the Hon'ble Apex Court in Sadhna Chaudhary Vs. State of Rajasthan & Anr., reported in 2022 (237) AIC 205 (SC), has been pleased to hold as follows:-

"14. Law on the applicability or grant of anticipatory bail under section 438 Cr.P.C. may be briefly summarised as under: 14.1. In Shri Gurbaksh Singh Sibbia and Others v. State of Punjab, a Constitution Bench of this Court, Chief Justice Y.V. Chandrachud, speaking for the Court dealt with in detail on the considerations for grant of anticipatory bail. 14.2. In Siddharam Satlingappa Mhetre vs. State of Maharashtra and Others²; this Court relying upon the Constitution Bench judgment in Shri Gurbaksh Singh Sibbia laid down in paragraph 112 of the report the following factors and parameters to be considered while dealing with an application for anticipatory bail:

- "(i) The nature and gravity of the accusation and the exact role of the accused must be properly comprehended before arrest is made;
- (ii) The antecedents of the applicant including the fact as to whether the accused has previously undergone imprisonment on conviction by a court in respect of any cognizable offence;
- (iii) The possibility of the applicant to flee from justice;
- (iv) The possibility of the accused's likelihood to repeat similar or other offences;
- (v) Where the accusations have been made only with the object of injuring or humiliating the applicant by arresting him or her;

(vi) Impact of grant of anticipatory bail particularly in cases of large magnitude affecting a very large number of people;

(vii) The courts must evaluate the entire available material against the accused very carefully. The court must also clearly comprehend the exact role of the accused in the case. The cases in which the accused is implicated with the help of Sections 34 and 149 of the Penal Code, 1860 the court should consider with even greater care and caution because over implication in the cases is a matter of common knowledge and concern;

(viii) While considering the prayer for grant of anticipatory bail, a balance has to be struck between two factors, namely, no prejudice should be caused to the free, fair and full investigation and there should be prevention of harassment, humiliation and unjustified detention of the accused;

(ix) The court to consider reasonable apprehension of tampering of the witnesses or apprehension of threat to the complainant;

x) Frivolity in prosecution should always be considered and it is only the element of genuineness that shall have to be considered in the matter of grant of bail and in the event of there being some doubt as to the genuineness of the prosecution, in the normal course of events, the accused is entitled to an order of bail."

It cannot be denied that the allegations basically arises out of matrimonial differences. On perusal of the typed complaint it would appear that the de facto complainant had stated that in order to satisfy the demand she had brought Rs.4 lakhs from her parents.

I have perused the statement as recorded of the parents of the de facto complainant and which appears to be not in consonance with the allegations. It further appears that during the course of investigation only an account statement of the mother of the victim was placed in the C.D.

I have also perused the statement of the victim as recorded u/S.183 BNSS and it would appear that such speaks only of verbal argument and one single incident of assault. No medical document finds place in the C.D.

Ld. Advocate for the de facto complainant also could not file any medical document of the victim. Furthermore, it would appear that the typed complaint does not speak about any dishonest misappropriation of streedhan articles. The I.O. has raised an objection that if the relief of anticipatory bail is granted to the petitioner, the streedhan articles would not be recovered. It appears that the de facto complainant has stated that such articles were entrusted to her parents-in-law and their family as she and her husband had went to reside in a separate residence.

The statement u/S.183 BNSS does not state about any such entrustment or misappropriation of any streedhan articles. Therefore, the objection raised by the I.O does not appear to be a cogent one. The other two grounds of objections also does not appear to be cogent as all the incidents of cruelty, in all reasonability would have taken place within the closed doors. Also as regards the apprehension of the I.O that the petitioner might commit similar offence, such cannot take place until and unless the spouses resumes the marital tie.

Considering all such, I find that in the instant case, the petitioner should be granted relief as prayed for.

ORDER

Considering all the facts and circumstances of the case, anticipatory bail is granted to the accused/ petitioner, namely, Arvind Prasad, subject to the following conditions:-

- (i) In the event of arrest, the petitioner shall be released on bail upon furnishing a bond of Rs.10,000/-, with one regd. surety of like amount, subject to the satisfaction of the Arresting Officer and ;
- (ii) the petitioner(s) shall make himself available for interrogation by a police officer as and when required;
- (iii) the petitioner (s) 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) that the petitioner shall not make any contact with the victim or any of her near relation in any manner whatsoever.

TCR and CD be returned.

The criminal misc case is disposed of.

The order be uploaded in the CIS without delay.

Dictated & corrected by me

S. J.

Sessions Judge, In-charge, Howrah