

**S.C. No. 64 of 2024**  
**S.T. No. 03(01)2025**  
**GR. 564/2024**

**CNR no-WBBK09000393 2024**

**State Vs. Bhajan Rajak**

**In connection with Khatra P.S. Case No. 58 of 2024 dated 05.09.2024 U/Ss. 126(2)/118(2)/109(1)/103(1)/351(3) of the BNS.**

**Order No. 14**  
**Dated 22.07.2025**

Today is fixed for passing order in regard to the petition U/S 254 of the B.N.S.S. filed on behalf of the accused Bhajan Rajak.

Copy is served.

Objection is raised.

Ld. Advocate for the accused moves the instant petition.

Ld. P.P. In-charge is present before the court.

It is stated that the trial of the case is in progress and date is fixed for further examination of the PW-1 (CSW-7) .

It is stated that in the instant case, there is the allegation of murder of the victim Madan Rajak and PW-1 (CSW-7) is his wife, CSW-8 is his daughter and CSW-1 is his son. It is the contention of the defence that apart from the relationship amongst the CSW-7, CSW-8 and CSW-1, they are going to depose on the same subject matter and prosecution has projected them as eye witnesses and as per the CSW-7 and CSW-8, they are injured witnesses also. CSW-1 is the maker of FIR of this case.

As per the contention of the prosecution, cross-examination of PW-1 and CSW-8 will certainly make the defence open and lacunae would be filled in by the prosecution. Thus, defence will be disclosed and they will be prejudiced.

It is further stated on behalf of the defence that there is no possibility to influence the witnesses as the CSW-7, CSW-8 and CSW-1 are the family members of the victim and all of them reside at Khatra at a distance of about one K.M. from the Khatra court compound and one and half K.M. away from the Khatra PS.

Ld. Advocate for the accused submits inter alia that the law is very clear and this court is empowered to entertain the instant petition for render justice to the parties.

Ld. Advocate further submits that under section 254 of the B.N.S.S. the defence is entitled to prefer this petition for its case and for justice and the court has legal right to exercise its discretion for allowing the instant petition.

At the time of his submission, Ld. Advocate for the accused in support of his submission refers some rulings reported in (2019) 13 SCC 297, 2023 ALL MR (Cri.) 3187, Law Finder Doc. ID # 2317392 and prays that for proper justice, the instant prayer of the accused should be allowed.

On the other hand, Ld. PP-in-Charge raises vehement objection against the instant prayer of the accused submitting inter alia that the rulings referred by the Ld. Defence Counsel do not hold good in the present case.

It is also submitted that the facts and circumstances of the present case is different from that of the above referred cases.

Ld. PP-in-Charge further submits that the back ground of the instant case is very peculiar and it is to be tried in its own merit. In other words, this case should not be confused with the cases referred by the Ld. Defence Counsel.

At the time of his submission, Ld. PP-in-Charge also refers the decision of the Hon'ble Apex Court reported in (2019) 13 SCC 297 and submits that the instant ruling has been misinterpreted before the court and it has no bearing with the present case and so that, this should not be relied upon in favour of the defence.

On the other hand, Ld. PP-in-Charge further submits that this case practically supports the contention of the prosecution and it should not be applied for upholding the contention of the defence and the instant prayer should accordingly be rejected.

On perusal of the record, it is seen that there are the submissions and counter submissions against each other about the exercise of discretion for entertaining the instant prayer of the defence in the light of the provision provided under section 254 of the BNSS.

Both the parties mainly rely upon the ruling reported in (2019) 13 SCC 297 claiming that the said ruling favours them. But, the court is to decide whether as per the spirit of the said ruling, the instant prayer of the defence can be entertained or not !

The provision provided under section 254 (3) of the BNSS empowers this court to exercise discretion to permit the cross-examination of any witness to be deferred until any other witness or witnesses have been examined or recalled in any witness for further cross-examination. But, at the same time, in view of the above decision of the Hon'ble Apex Court, this discretionary power is to be exercised by a trial court with very care and caution. It is not a blank cheque in the hands of the trial court. The purpose and intention of the instant provision of section 254 (3) of the B.N.S.S. corresponding to the provision provided under section 231(2) of the Cr.P.C. is not to allow all the petitions which may be preferred by the defence. But those provisions of the respective enactments intend to empower the trial court so that the truth can be explored and justice may be rendered.

On careful scrutiny of the above decisions referred by the respective parties, it appears that one thing is clear that generally the trial court is to proceed with the examination of the witnesses of the prosecution according to its desire and discretion, as the case belongs to prosecution. But, at the same time, the trial court is not absolutely powerless to control and regulate the examination of the witnesses of the prosecution. The paramount consideration is to render justice to the parties in the light of the materials available before the court and in that case, the court is empowered to exercise its judicial discretion by allowing or rejecting the prayer of the defence in the light of the said provision of the BNSS.

In the present case, it is seen that the CSW-7, CSW-8 and CSW-1 belong to the same family and their evidences are very vital for the instant case. The defence advances that if the cross-examination of the witnesses are done on completion of their respective examination-in-chief, then the defence will be disclosed and the accused will be prejudiced.

On the other hand, if the cross-examinations of the witnesses mentioned in the instant petition are done simultaneously, they will be able to bring the truth and in that case, the defence will not be prejudiced. Hence, the instant petition.

The prosecution interprets the above decision of the Hon'ble Apex Court by banking upon section 254(1) of the BNSS only advancing that it is the prerogative of the prosecution to produce its witnesses before the court according to its convenience and requirement and the court will record their evidence accordingly. But, provision 254(3) of the BNSS provides a strong power in the hand of the court for regulating the manner of evidence of the parties for upholding justice and this power is provided strictly for rendering justice in the eye of law.

In the present case, the above mentioned witnesses belong to the same family and it is natural that their evidences will be on the same lines and if the examination of a witness is commenced after the completion of the examination and cross-examination of another witness, then the contention of the defence as made out in the instant petition cannot be ruled out.

On the other hand, this court does not find anything to hold that if the instant prayer of the defence be allowed, then the prosecution will be prejudiced. Moreover, there is the possibility that the defence will be prejudiced if the instant prayer is not entertained.

The court is to bring truth to light and with that noble vision the legislature has provided those empowering provisions provided under section 254 of the BNSS corresponding to the provision under section 231 of the Cr.P.C. in the hands of the trial court.

Therefore, considering the existing facts and circumstances of the case, materials in the record, back ground behind the case, status of the witnesses intended to be cross-examined simultaneously, intention and purpose of the provisions provided under sections 254 of the BNSS / 231 of the Cr.P.C., spirit of the above referred ruling of the Hon'ble Apex Court referred by both the parties in support their own cases by interpreting the same in their own ways and ultimately taking into account the interest of justice in its widest sense, my judicial mind finds no other alternative route, but to hold that the instant petition filed on behalf of the accused bears merit from the legal as well as judicial point of view and it is required to be allowed accordingly.

Hence, it is,

**Ordered**

that the petition under section 254 of the BNSS filed on behalf of the accused is allowed as prayed for.

The instant petition is accordingly disposed of in terms of the above discussions.

To 11-09-2025 for production of the accused and further examination of the PW-1.

Dictated and Corrected by me

A.S.J  
Khatra, Bankura

Additional Sessions Judge,  
Khatra, Dist.- Bankura  
J.O. Code WB00638

