

IN THE COURT OF SESSIONS JUDGE, COOCH BEHAR

Present : **Sri Nirvan Khesong,**
 Sessions Judge,
 Cooch Behar.
 J.O. Code WB00662

Bail Petition No. 256 / 2026
CNR No. WBCB01-000475-2026

Order No. 5,
dated 01/04/2026

In the present application, the accused / petitioner namely **Afzal Hossain @ Hussain** has filed an application under section 483 of the Bharatiya Nagarik Suraksha Sanhita praying for bail in connection with Kotwali P.S. Case No. 12 / 2026 dated 06/01/2026, under section 115(2), 117(2), 109, 351(2), 3(5) of the Bharatiya Nyaya Sanhita, corresponding to G.R. Case No. 29 of 2026.

Ld. Advocates for the contesting parties are present.

Case Record of the Ld. Trial Court and Case Diary have been produced.

So, the Bail Petition is taken up for hearing.

By swearing affidavit, it has been stated in the bail application by the accused / petitioner that prior to filing of the present application, he did not file any application under section 483 of the B.N.S.S. before the Hon'ble High Court or any other superior Court, and no such application is pending or there is no rejection of such prayer by the Hon'ble Court. Learned Public Prosecutor contends that there is no indication in the Case Diary in disputing the aforesaid facts.

Heard Ld. Advocate for the accused / petitioner who submits that the accused / petitioner is the elder brother of the victim. He is innocent and over the issue of a simple incident of hot altercation and scuffling, this case been filed against the accused / petitioner with some false and exaggerated allegation as no such incident had allegedly occurred at the behest of the accused / petitioner which may attract the offence punishable under section 109 of the B.N.S. Ld. Advocate further submits that the accused / petitioner has been arrested and produced before Court on 09/01/2026 and since then he is in custody for about 82 days. So, considering the facts and circumstances of the case and also considering the period of detention, Ld. Advocate prays for bail of the accused / petitioner on any condition.

Ld. Public Prosecutor-in-charge draws my attention to the medical documents of the injured victim, statement of the witnesses made under section 180 of the B.N.S.S. and other materials in the Case Diary and has opposed the prayer.

Perused the Case Diary and other materials on record.

On perusal of the Case Record, it appears that the accused / petitioner has been in the custody since 09/01/2026 i.e. for almost 82 days and the charge sheet has not yet been submitted. It also appears from the case record that the offence involved in this case is inter-alia under section 109 of the B.N.S. and the victim has already been discharged from the hospital after medical treatment. It also appears from the injury report that the victim had sustained head injury caused by a bamboo stick.

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Now, considering the materials in the Case Diary and since the accused / petitioner has been in the custody for last 82 days and the investigation of this case is almost over, I am of the opinion that further detention of the accused / petitioner is not necessary and as such, I am inclined to allow the prayer for bail of the accused / petitioner under section 483 of the Bharatiya Nagarik Suraksha Sanhita.

Hence, prayer for bail of the accused / petitioners is **allowed**.

Accordingly, the accused / petitioner namely **Afzal Hossain @ Hussain** may find bail of ₹ 5,000/- with two registered sureties of ₹ 2,500/- each subject to the satisfaction of Ld. Chief Judicial Magistrate, Cooch Behar in default to Judicial Custody.

Thus, the bail petition is disposed of.

Case Diary and the Case Record of the Ld. Trial Court be returned at once.

Dictated and corrected by me,

Sd/-
Sessions Judge ,
Cooch Behar.

Sd/- Nirvan Khesong
Sessions Judge,
Cooch Behar