

**Spl GR Case no. 06 of 2025**  
**Reg No. 06 of 2025**  
Present: Sri Madan Mohan Mishra  
**JO Code : WB00727**

Order no. 01 dated 06.08.2025

Received FIR, formal FIR, Memo of arrest, Inspection memo, Check list of arrest u/s 35 of BNSS along with a forwarding note in connection Siliguri PS Case No. 507 of 2025 dated 04.08.2025 u/s 126(2)/115(2)/351(2)/3(5) BNS and 3(1)(r)(s) of SC and ST (POA) Act, 1989.

One separate prayer has been made by the Investigating Officer of the case, Assistant Commissioner of Police Sri Tirtha Sarathi Nath seeking permission to produce the accused in virtual mode through google meet link from Siliguri PS on the ground that physical production of the accused persons before this Court at Darjeeling from Siliguri may create law and order problem as there is a prevailing public agitation centering the occurrence involved in the case.

Considering the grounds cited by the Investigating Officer and taking note of the fact that no prayer for police remand of the accused persons has been made and the provisions under BNSS, 2023 provides for production of accused persons in course of investigation through audio and video electronic means, I find no impediment in seeing the production of the accused persons through google meet link video from Siliguri PS where the accused persons have been confined after their arrest before this Court.

Two accused Leela Dutta, Female, 51 years and Rubi Dutta, Female, 49 years are produced before this Court from Siliguri PS through google meet code xcv-zxzb-scf.

Seen the forwarding report, memo of arrest and medical slip of the accused persons and the accused challan.

The accused persons makes no complaint of torture in police custody. They are taken into custody and remanded to JC till 20.08.2025.

The Investigating Officer of the case is present.

The learned prosecutor Sri Reemesh Mothay appears for the prosecution.

Ld. Advocate Sri Subhranil Barman appears for the accused persons and files a bail petition along with a Vakalatnama.

The bail application filed by accused persons is taken up for consideration.

Heard learned advocate representing accused persons as well as learned prosecutor and perused the materials on the case record.

Ld. Advocate representing accused persons submits that there are gross omissions in stating the ground of arrest in the memo stating the grounds of arrest and it is gross violation of the law laid down by Hon'ble Apex Court Bihann Kumar VS State of Haryana reported in 2025 INSC 162. The offence for which the FIR has been registered prescribes for maximum punishment of five years and no notice u/s 35(3) of BNSS has been served upon the accused persons before their arrest. The allegation disclosed in the FIR itself does not justify the detention of the accused persons in custody who are aged female.

Ld. Prosecutor opposes the bail application by submitting that the allegations brought against the accused persons are all bailable barring u/s 3(1)(r)(s) of SC and ST (POA) Act, a non bailable offence and the allegation against the accused persons is that they intentionally uttered derogatory words towards the victims belonging to Nepali Schedule Tribe community in public view. Considering the nature of the allegation enlarging of accused persons on bail at this early stage of investigation would prejudice the investigation as well as the public law and order.

Having considered the submissions raised by learned advocate representing accused persons and learned prosecutor in the light of the allegation disclosed in the written complaint and the materials sent along with the forwarding note this day, I find force in the contention raised by learned advocate representing accused persons that the provisions of Section 35(3) of BNSS has not been complied before arresting the accused persons and the grounds of arrest has not been disclosed in the memo stating the grounds of arrest. Now, let us come to the allegation brought against accused as could be seen from the written complaint. The written complaint itself finds reference that the accused party and victim party are co-tenants in the same building and there was a quarrel amongst the two groups over the issue of thrashing of a wooden window in the building by the accused party. There is nothing in the written complaint from which it could be inferred that the accused persons intended to utter the derogatory words towards the victim party within the hearing of any person other than the two groups involved in the private quarrel.

Considering the nature of the allegation as disclosed in the written complaint and the manner of arrest as could be seen from the memo of grounds of arrest, I find no reason to detain the accused persons in custody.

Accused persons may find bail of Rs. 2000/- each with one registered surety of like amount to the satisfaction of learned Chief Judicial Magistrate, Darjeeling with condition that accused persons shall meet the Investigating Officer of the case as and when required till conclusion of the investigation in the case.

Let a copy of this order be sent to the Office of learned Chief Judicial Magistrate, Darjeeling for information.

The order be uploaded in the CIS at once.

The intermediary warrant of custody of accused persons issued by this Court be handed over to the Investigating Officer of the case, Assistant Commissioner of Police Sri Tirtha Sarathi Nath and Superintendent of Siliguri Special Correctional Home is directed to receive the accused persons as under trial prisoner.

Taking note of the inconvenience which may be caused to the persons concerned with the case for the traveling distance in between Darjeeling and Siliguri, a copy of this order be supplied to the accused persons, the Investigating Officer of the case and to the Superintendent of Siliguri Special Correctional Home.

To 20.08.2025 for production of the accused persons and IO's report.

Dictated & corrected by me

sd/-

sd/-

Judge, Spl. Court,  
Under SC & ST (POA) Act, Dlg  
(In Charge)

Judge, Special Court,  
Under SC & ST (POA)Act, Dlg.  
(In Charge)