

Sessions Case No.11 of 2026  
Reg. No. 11 of 2026  
Present: Shri Akhilesh Kumar Pandey  
JO CODE WB 00784  
CNR WBDJ 01-0005132026

Order No.03  
Dated: 13.08.2026

All the five accused persons on bail are present.

Today is fixed for opening case for the prosecution as well as consideration of charge against the accused persons.

Ld. Advocate for the accused persons as well as Ld. PP for the prosecution are present.

Perused the case record.

Record is taken up for opening case for the prosecution by the Ld. PP for the prosecution.

The Ld. PP for the prosecution opens the case for the prosecution by describing the charges brought by the prosecution against the accused persons u/s 329(3)/118(1)/109/281/324(4)/351(2)/3(5) of BNS and proposes to prove the said charges against the accused persons by the evidence of the witnesses cited in the charge sheet.

Heard both sides.

Perused the FIR, charge sheet and the materials against the accused persons in the case diary.

From the materials appearing in the case diary, I find that initially the case was started against the present five accused persons u/s 329(3)/ 118(1)/109/ 281/324(4)/ 351(2)/ 3(5) of BNS and investigation was taken up and after completion of the investigation, report in final form has been submitted by the police against all the five accused persons and u/s 329(3)/118(1)/ 109/ 281/ 324(4)/351(2)/3(5) of BNS.

As the offence alleged in the charge sheet against the accused persons u/s 109 of the BNS is exclusively triable by the Court of the Sessions and as such, after compliance of the legal formalities, the case was committed to the Court of the Ld. Sessions Judge and from there the same has been transferred to this Ld. Court for disposal.

After receipt of the case record by this Ld. Court, the Ld. PP for the prosecution opens the case for the prosecution by describing the charges brought by the prosecution against the accused persons u/s 329(3)/ 118(1)/ 109/ 281/324(4)/ 351(2)/3(5) of BNS and proposes to prove the said charges against the accused persons by the evidence of the witnesses cited in the charge sheet.

After opening the case for the prosecution, the record was taken up for consideration of charge against the accused persons.

After going through the materials in the case diary against the accused persons, I find that all the offences alleged against the accused persons are triable by the Court of the Ld. Magistrate except that of Section 109 of the BNS.

After going through the injury report of the victim with the case diary, sustained in the incident by the victim is not sufficient to cause the death of the victim in order to attract the provisions u/s 109 of the BNS, the injury report shows that the victim was not admitted in the hospital and was discharged after giving first aid and the nature of injury sustained by the victim found is simple in nature and at best, the injury sustained by the victim attract the provisions u/s 115(2) of the BNS which is also triable by the Court of the Ld. Magistrate.

As such, in the process of consideration of charge against the accused persons, all the offences committed by the accused persons are found to be triable by the Court of the Ld. Magistrate and the case is not exclusively triable by the court of the Ld. Sessions Judge, in view of the provision u/s 251(1)(a) of the BNSS, let the case record be sent back for trial to the Ld. Chief Judicial Magistrate, Darjeeling to try the same by himself or by any other Judicial Magistrate under him by framing the charges above made out against the accused persons.

Accused persons present are directed to appear before the Ld. Chief Judicial Magistrate, Darjeeling on 03.09.2026.

Surety for the accused persons to produce the accused persons before the Ld. Chief Judicial Magistrate, Darjeeling on the next date positively without fail.

Let the case record be sent to Ld. Chief Judicial Magistrate, Darjeeling to proceed with the same further against the accused persons under the due process of law.

To **03.09.2026** for appearance of the accused persons before the Ld. Chief Judicial Magistrate, Darjeeling and passing further order.

D & C by me,

Addl. Sessions Judge,  
1<sup>st</sup> Court, Dlg.

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