

Cr. Misc. Case No. 378/2026  
CNR No. WBHW0100 0987 2026  
Present: Sri Mainak Dasgupta  
Sessions Judge, In-charge, Howrah.  
J.O. Code – WB01070

Order No.05 dated 17.03.2026.

The application u/S.482 BNSS arising out of Chatterjeehat P.S. Case No. 98 of 2025 dated 29.04.2025 u/Ss. 69/318(4)/316(2)/3(5) of B.N.S., filed by the accused/petitioner namely, Apurba Banerjee, 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 whatever relation existed between the victim and the petitioner was entirely consensual and there was no element of deceit. With such submissions, Ld Advocate for the accused/petitioner asserted the prayer for anticipatory bail.

Ld.P.P. has raised objections to the prayer asserting the gravity of the offence.

Ld. Advocate for the victim is also present and has filed Vakalatnama and a copy of the Aadhaar Card of the victim. Such be kept in a sealed envelope.

Perused the TCR and C.D.

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 Others<sup>2</sup>; 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 appears that the victim had made a complaint stating that she got acquainted with the petitioner in the year 2020 and who promised marriage and had sexual intercourse with her. She further alleged that the petitioner had also misappropriated a sum of Rs.35 lakhs from her along with gold ornaments. With such allegation and further allegation as to the immoral character of the petitioner, the complaint was filed.

First and foremost it would appear that the victim is aged about 45 years and is married. It was not asserted by the Ld. Advocate for the victim that such petitioner had obtained divorce from the husband whose name stands mentioned in the copy of the Aadhaar Card. Furthermore, it appears that the petitioner had sent huge amounts of money in the account of such victim.

Ld. Advocate for the petitioner submitted that the victim and her husband had taken huge monetary amount on loan but did not return such and when the petitioner demanded such, this false complaint has been filed so as to evade such payment. Ld. Advocate for the petitioner relied upon a Judgement cited in 2025 Cri.L.J. 168 and asserted that the allegations stated of a long standing relation and conduct of the complainant showed that she was a mature person capable of understanding consequences of her acts and she was fully aware of kind of illicit relationship she was maintaining with a married person. Such a citation aids the petitioner in fortifying the prayer.

The Hon'ble Supreme Court of India in the case of P.N. Vs. State of Chhattisgarh and others and cited in 2026 Livelaw (SC) 118 was pleased to hold that it was difficult to believe that a married woman was induced into sex with false promise of marriage.

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, Apurba Banerjee, 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 two regd. sureties of Rs.5,000/-each. 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;

LCR 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