

Cr. Misc. Case No. 384/2026
CNR No. WBHW0100 1003 2026
Present: Sri Mainak Dasgupta
Sessions Judge, In-charge, Howrah.
J.O. Code – WB01070

Order No.03 dated 09.03..2026.

The application u/S.482 BNSS arising out of Jagacha P.S. Case No. 30 of 2026 dated 10.02.2026 u/Ss. 115(2)/303(2)/351(2) of BNS filed by the accused/petitioners namely, 1] Palash Sen & 2] Priyanka Banerjee, is taken up for hearing.

Heard Ld. Advocate for the 02 accused/petitioners who submitted that the petitioner no.2] Priyanka Banerjee had lodged an FIR on 17.01.2026 against the de facto complainant of the instant case and her son and thereafter had also filed another misc case seeking maintenance and as a counter to such, the instant FIR has been lodged putting false allegations. With such submissions, Ld Advocate for the accused/petitioners asserted the prayer for anticipatory bail.

Ld.P.P. has raised objections stating that the petitioner no.2 has an illicit affair with the petitioner no.1 and further submitted that it has been alleged that cash and gold ornaments were stolen and for which custodial detention of the petitioners would be necessary.

Ld. Advocate for the de facto complainant is also present and has filed Vakalatnama and has raised objection to the prayer.

Perused the TCR and CD.

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 Others²; 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."

First and foremost, it cannot be denied that the petitioner no.2 appears to have lodged an FIR much before on 17.01.2026 against the de facto complainant and her son. It also appears that even though the alleged incident has been asserted to have taken place on 05.01.2026, the FIR was lodged on 10.02.2026. The ground of delay as stated in the complaint also does not appear to be convincing enough. Furthermore, it is now well settled that the relief as prayed for should not be refused only on the ground that if the petitioners are put in custody, there might be possibility of recovery of certain articles. The purpose would also be served if the petitioners are put in stringent condition to meet with the I.O at all reasonable hours till completion of investigation.

Considering all such, I find that in the instant case, the petitioners should be granted relief as prayed for.

ORDER

Considering all the facts and circumstances of the case, anticipatory bail is granted to the accused/ petitioners, namely, 1] Palash Sen & 2] Priyanka Banerjee, subject to the following conditions:-

(i) In the event of arrest, the petitioners shall be released on bail upon furnishing a bond of Rs.5,000/-, with two sureties of equal Rs.2,500/- each, to the satisfaction of the Ld. Chief Judicial Magistrate, Howrah 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;

(iv) the petitioners shall meet with the I.O, as and when required for the purpose of investigation at all reasonable hours.

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