

Cr. Misc. Case No. 421/2026
CNR No. WBHW0100 1123 2026
Present: Sri Mainak Dasgupta
Sessions Judge, In-charge, Howrah.
J.O. Code – WB01070

Order No.05 dated 24.03.2026.

The application u/S.482 BNSS arising out of Bauria P.S. Case No. 31 of 2026 dated 19.02.2026 u/Ss. 126(2)/117(2)/118(2)/109/303(2)/351(2)/3(5) of B.N.S., filed by the accused/petitioners namely, 1] Somenath Ghosh @ Somnath Ghosh & 2] Subham Ghosh @ Suvom Ghosh, is taken up for hearing.

The petitioners have 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 02 accused/petitioners who submitted that the petitioner no.1] Somenath Ghosh @ Somnath Ghosh is the brother of the de facto complainant Srinath Ghosh and over the property dispute an incident had occurred but the allegation has been exaggerated. It was further submitted that even though the alleged incident has been stated to have been occurred on 07.02.2026, the de facto complainant had been to the P.S. on 19.02.2026. With such submissions, Ld Advocate for the accused/petitioners asserted the prayer for anticipatory bail.

Ld.P.P. has raised objections to the citing the injury reports.

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."

It appears that the allegation against the petitioner no.1 is that he had assaulted the de facto complainant with a wooden batam. The allegation against the petitioner no.2 is that he had tried to assault the son of the de facto complainant with a hammer. There is also a further allegation of theft of gold chain. It appears that it is palpable that there are property disputes between the de facto complainant and the present petitioners.

I have perused the statement as recorded and it would appear that there are different version about the weapon used during the alleged incident. Further more, on perusal of the injury report it would appear that there was blunt injury on the left temporal lobe of Srinath Ghosh and small linear cut injury over the person of Suvom Ghosh who had also complaint of blunt injury, pain in forehead.

The injuries does not appear to be of such grave nature as to deny the relief. Furthermore, it appears that there is no explanation as regards the delay in lodging the FIR. Even though it has been alleged that GD was lodged but no copy of such, is found within the CD. Furthermore, the relief should not be refused due to possibility of any recovery of the chain allegedly has been stolen.

Considering all such, it appears that the petitioners should be granted the relief as prayed for.

ORDER

Considering all the facts and circumstances of the case, anticipatory bail is granted to the accused/ petitioners, namely, 1] Somenath Ghosh @ Somnath Ghosh & 2] Subham Ghosh @ Suvom Ghosh, 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/- each with two regd. sureties of equal Rs.2,500/- 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;

(iv) the petitioners shall meet with the I.O, once in a fortnight till completion of investigation.

TCR and CD be returned.

The criminal misc case is disposed of.

The order be uploaded in the CIS without delay.

Dictated & corrected by me