

Cr. Misc. Case No. 427/2026
CNR No. WBHW0100 1143 2026
Present: Sri Mainak Dasgupta
Sessions Judge, In-charge, Howrah.
J.O. Code – WB01070

Order No.02 dated 10.03..2026.

The application u/S.482 BNSS arising out of Bagnan P.S. Case No. 97 of 2026 dated 18.02.2026 u/Ss. 329(4)/126(2)/115(2)/117(2)/109/303(2)/351(2)/3(5) of BNS filed by the accused/petitioners namely, 1] Salahar Begum, 2] Gulnar Khatoon, 3] Arbiya Begum @ Arbia, 4] Asmina Begum, 5] Saidul Mallick, 6] Sakendar Mallick & 7] Saiyab Mallick @ Soheb, is taken up for hearing.

Heard Ld. Advocate for the 07 accused/petitioners who submitted that such petitioners did not cause the cut injury on the victim and it was another accused namely, Subid Mallick who has done such act. It was further submitted that even though it was alleged that the accused/petitioner Soheb Mallick had assaulted the victim with a 'Sabol', there was no medical document to cooperate such allegations. With such submissions, Ld Advocate for the accused/petitioners asserted the prayer for anticipatory bail.

Ld.P.P. has raised vehement objections to the prayer and asserted that if many persons committed an act in furtherance of common intention, any of such persons cannot thereafter come for and stated that a particular act cannot be attributed to him.

Ld. Advocate for the de facto complainant is also present and has drawn my attention to the injuries suffered by the victim.

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 from the medical documents and the photographs that find place in the C.D that grave injuries have been caused to the victim. If the entire FIR is perused, it would appear that such palpable speaks of the circumstances of a prior meeting of mind.

The statement as recorded also corroborates such. Therefore, after a injury is inflicted following such act by any particular person of such group of persons, the present petitioners cannot come for with the plea that they should be granted the relief as they did not cause the injury. It palpably appears that custodial detention of the petitioners would be required for the purpose of a complete investigation. Furthermore, the gravity of the offence as alleged should also be taken into consideration along with the documents that primarily supported such allegation.

Hence, considering all such and also considering that the condition required to be satisfied for the grant of the relief of anticipatory bail is missing, the prayer for anticipatory bail of the 07 petitioners namely, 1] Salahar Begum, 2] Gulnar Khatoon, 3] Arbiya Begum @ Arbia, 4] Asmina Begum, 5] Saidul Mallick, 6] Sakendar Mallick & 7] Saiyab Mallick @ Soheb stands rejected.

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

S. J.

Sessions Judge, In-charge, Howrah