

Criminal Misc case 443 of 2026

Order no 26 dated 18-4-2026

Today is fixed for hearing of the instant criminal misc case that has emanated out of an application filed by the petitioner accused Abhishek Sharma under section 483 BNSS.

Ld Advocate for the accused is present. Ld PP in charge is also present.

Heard Ld Advocate for the accused and Ld PP in charge.

Perused the materials on record and in the CD.

Considered

Ld Advocate for the accused submitted that if the entire complaint is perused it would appear that all the allegations of assault that had allegedly caused the unfortunate demise lies against the accused Suvajit Maity @ Subho. Ld advocate further submitted that if the order dated 22-10-2025 as passed by the Ld Vacation Judge is perused, it would appear that the Ld Vacation Judge had brought forth several lacunae in the investigation and had also informed the Commissioner of Police, Howrah Police Commisionerate about such lacunae and to consider whether there was scope for further investigation. Ld Advocate further submitted that no prayer for bail was ever preferred before the Hon'ble High Court and further submitted that the accused shall adhere to any condition that might be imposed upon by this Court, if the accused is found entitled to the liberty through bail.

Ld PP in charge raised objections to the prayer and asserted that this Court vide order dated 02-12-2025 was pleased to reject the prayer for bail preferred by the accused petitioner and one such has been rejected, there is no manner this Court can again consider the prayer for bail in absence of any change in circumstances.

The facts of the case is that the defacto complainant ( who is also present today) had lodged a complaint stating that on 13-7-2025 her son Sk Saheb was called over phone by his friend 'Tatai' and thereafter her son went out and at about 6 PM a local person namely Nur Azam called her middle son and informed him that he was taking Sk saheb to the hospital as he had fallen ill. The defacto complainant rushed to the hospital and saw that Sk Saheb was laid down and the doctor informed her that his condition was precarious and advised that he be taken to other hospital. The defacto complainant took her son to Narayani Hospital and where he was declared as brought dead. The defacto complainant enquired from Tatai and who told her that one Subho had called the deceased and thereafter the deceased along with Nur Azam and Saheb went there on a motorcycle and saw that Subho, Abhishek, Anand Jaiswal, Dipak Chowdhury and other was standing there and thereafter Tatai asked Subho as to why they were called and thereafter the said Subha began to assault the deceased with his 'bala' on his head and neck and also struck the deceased with a brick and who fell down. The other persons present restrained Tatai and Nur Azam and thereafter all of them fled away.

It would appear on a glance that the allegations in the complaint has been primarily levelled against the accused Subho @ Suvajit Maity and from whom a broken 'bala' had been seized. It also appears that an old and broken brick was also seized as shown and brought out by such accused. The IO has stated in the chargesheet that CCTV footage was collected which shows the accused persons fleeing away but

did not state that any footage was collected as regards the direct involvement of the present accused petitioner in the assault. If the statement of the eye witness Tatai is considered, it would appear that he has stated that there were talks and which escalated to arguments and eventually a fight and during such the deceased was assaulted by Subha. Similar statement has been also rendered by the other eye witness namely Noor Azam. I have also perused the statement of other witnesses namely Sk Ibrahim @ Pintu. I have perused the PM report and it appears that the unfortunate demise was the result of the head injuries. If the statement of the witnesses under section 164 CrPC/ 183 BNSS is considered it would appear that the statement rendered by Noor Azam only states about a conjoint assault and further states that it was the accused Suvajit who had caused the head injuries. The statement rendered by the witness Tatai also speaks about such assault by the accused Suvajit. The primary allegation against the present petitioner is criminal conspiracy. It might be argued that the petitioner was not involved in any conspiracy to murder and also was not aware that the disputes would end in the said alleged act of murder. This Court is aware of the explanation which states that: *It is immaterial whether the illegal act is the ultimate object of such agreement, or is merely incidental to that object.*

The presence of the accused petitioner at the PO and the evidence as collected as regards the role played by such accused petitioner and which when considered with the explanation to section 61 would go to show that the accused, at this stage, should not be granted the relief as prayed for as a heinous offence has been alleged to have been committed in broad daylight leading to the death of a person of young age.

Hence, considering all such it is hereby

ORDERED

that the prayer for bail stands refused at this stage.

However, I find it proper to direct the prosecution that even though the court is without any regular PO and ADJ FTC-II is in charge, the proceedings must be carried forth henceforth without any adjournments or delay considering that the prayer for bail has been refused. The prosecution must come ready on 27-4-2026 for due consideration of charge.

Addl. District Judge  
2<sup>nd</sup> Court Howrah  
in charge