

Cr. Misc. Case No. 459/2026  
CNR No. WBHW0100 1223 2026  
Present: Sri Mainak Dasgupta  
Sessions Judge, In-charge, Howrah.  
J.O. Code – WB01070

Order No.05 dated 31.03.2026.

The application u/S.482 BNSS arising out of Shibpur P.S. Case No. 42 of 2026 dated 29.01.2026 u/Ss. 85/316(2)/89/351(2)/3(5) of BNS and 3/ 4 D.P. Act filed by the accused/petitioners namely, 1] Aamir Shakil, 2] Sabrun Nesha, & 3] Shahnaz Parveen @ Putul, 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 03 accused/petitioners who submitted that the allegations arises out of matrimonial differences and have been highly exaggerated. Ld. Advocate for the accused further submitted that the petitioner no.2 had also lodged an FIR on 29.01.2026 against the de facto complainant. It was also submitted that the de facto complainant had suffered a miscarriage in the month of February 2025 and such has been also included in the present allegations. With such submissions, Ld Advocate for the accused/petitioners asserted the prayer for anticipatory bail.

Ld.P.P. fairly submitted that if the allegations are considered along with materials in the C.D. it would appear that the petitioners cannot be granted the relief as prayed for.

The victim is also present with her Ld. Advocate who has raised objection.

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 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."

If the written complaint is perused it would appear that such states that her husband went to Dubai but thereafter the petitioners being the in-laws subjected her to physical and mental cruelty and also used to assault her. She further stated that her husband also neglected her and did not provide any maintenance. Eventually on 29.01.2026 at about 12.40 AM the female petitioners kicked her on her stomach when she was lying down and tortured her and threatened her. She received injuries and thereafter her family members arrived and took her to Shibpur PS and thereafter to Howrah General Hospital. First and foremost, it cannot be denied that the allegations have arose basically out of matrimonial differences. The de facto complainant has not stated the manner of assault or the manner in which she was subjected to physical and mental cruelty. The de facto complaint has also not stated about any particular incident of assault save and except as that of 29.01.2026. If the injury report of the victim is perused, it would appear that there was no mark of injury or any bleeding. Moreover, if the statement of the brother of the victim is considered it would appear that such does not stand in consonance with the allegation that the miscarriage was caused without the consent of the woman. If the statements are perused, it appears that it cannot be regarded at this stage that the miscarriage was caused due to the act of the petitioners and that it was the conduct of the petitioners that was solely responsible for such miscarriage. The documents placed within the C.D does state about an incomplete abortion on 06.02.2025 but such cannot be attributed to any act of the petitioners based on the materials collected. Therefore, I find no reason to deny the relief as prayed for. No criminal antecedents of the petitioners has also been brought forth. Furthermore, it would appear that the complaint does not state about any entrustment of any gold ornaments to any of the petitioners so as to setup a ground for rejection of the prayer.

Considering all such, I find it proper to grant 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] Aamir Shakil, 2] Sabrun Nesha, & 3] Shahnaz Parveen @ Putul, subject to the following conditions:-

(i) In the event of arrest, the petitioners shall be released on bail upon furnishing a bond of Rs.10,000/- each with two sureties of equal 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;
- (iv) the petitioner no.1 shall meet with the I.O. as and when called upon to aid the purpose 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

S. J.

Sessions Judge, In-charge, Howrah