

Cr. Misc. Case No. 465/2026
CNR No. WBHW0100 1240 2026
Present: Sri Mainak Dasgupta
Sessions Judge, In-charge, Howrah.
J.O. Code – WB01070

Order No.04 dated 19.03.2026.

The application u/S.482 BNSS arising out of Joypur P.S. Case No. 28 of 2026 dated 01.02.2026 u/Ss. 85/76/316(2)/3(5) of BNS and 3/4 D.P. Act filed by the accused/petitioners namely, 1] Hasinoor Rahaman @ Sk. Hasinur Rahaman and 2] Ainal Molla, is taken up for hearing.

Heard Ld. Advocate for the two petitioners who submitted that the petitioner No.1 is the husband of the de facto complainant while the petitioner No.2 is her 'Nandai'. It was further submitted that the allegations are absolutely false arising out of matrimonial differences and that the physical custody of the petitioners would not be required for a proper investigation.

Ld. P.P. has raised objection to the prayer.

Perused the case diary.

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."

If the typed complaint is perused it would appear that it has been alleged that following the marriage, that was held on 05.04.2025, the petitioner No.1 and his parents begun to demand money and used to treat her as a maid and also used to verbally abuse her and assault her. It was further alleged that on 01.02.2026 at about 8.00 a.m. the petitioner No.2 embraced her from behind and when she shouted, the in laws arrived and begun to blame her. Eventually, she was driven out.

First and foremost, it would appear that the 'Stridhan' articles have been seized on 04.03.2026. It would also appear that the parents of the petitioner No.1 and the wife of the petitioner No.2 have been granted interim bail vide order dated 24.02.2026 by the Ld. A.C.J.M., Uluberia. It cannot be denied that the allegations basically pertains to matrimonial dispute. It would also appear that there is no possibility that any witnesses would be threatened or won over by the petitioners as in all reasonability the incident had occurred within closed doors and only in presence of the accused persons. It would also appear that no medical document has been seized even though it has been alleged that the victim was subjected to continued assault. The Hon'ble Supreme Court of India in plethora of judgements had highlighted the misuse of Section 85 BNS and the inclination of the de facto complainant to entangle majority of the in-laws within the criminal litigation. A question must be asked as to what purpose shall be served to the investigation if the present petitioners are put in custody. The custody of the petitioners should not partake the character of punishment. I find it pertinent to mention that the statement of the victim has not yet been recorded but in all reasonability such would only reiterate the allegations made in the typed complainant.

Considering all such and also considering the absence of any previous complaint to any statutory authority and also the absence of any assertion of criminal antecedent of any of the petitioners, I find it proper to allow the prayer and both 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] Hasinoor Rahaman @ Sk. Hasinur Rahaman and 2] Ainal Molla, 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 sureties of Rs.2,500/- each, to the satisfaction of the Ld. Chief Judicial Magistrate, Howrah ;

(ii) the petitioner(s) shall make himself available for interrogation by a police officer as and when required ; and

(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;

L.C.R. and C.D. 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