

In the Court of District & Sessions Judge, Alipurduar.
Criminal Misc. Case No.179/2026
(CNR No. WBJP05-000403-2026)
Present : Sri Pukar Pradhan (J.O.No.WB01097)
Addl. District & Sessions, FTC-II,
In Charge of Sessions Judge, Alipurduar.

Saddam Hussain.....accused/petitioner

- Vs -

State of West Bengal

Order No.4 dt.07.03.26

The instant Criminal Misc Case is arisen out of the bail application filed u/s 482 BNSS by the applicant/petitioner **Saddam Hussain**, the resident of Nabipur, Madhya Rangalibazna, P.S. Madarihat, Dist. Alipurduar, in connection with G.R. Case No.318/2026, corresponding to Falakata P.S Case No.113/2026 dt. 17.02.26, u/s 303(2)/317(2) of BNS read with Section 21 Mines & Minerals Act.

Learned Advocate appearing for the accused/petitioner submits that the accused/petitioner has not moved any bail application for and on behalf of the accused before the Hon'ble High Court or the Hon'ble Supreme Court and no such application is pending or disposed of before the Hon'ble High Court or the Hon'ble Supreme Court.

Heard the submission of Learned Advocate for the accused/petitioner Saddam Hussain who prays for anticipatory bail on the ground that he is the owner of the vehicle being Registration No. WB-69A-2305 which has been specifically mentioned at the formal complaint so lodged by ASI Karna Kumar Barman of Falakata P.S. It is further contended that the present case has been registered on the basis of a complaint so lodged by the police personnel and he is not authorized person as per Mines & Minerals Act. Therefore, cognizance of u/s 21 of Mines and Minerals Act is barred by law. That apart, other two sections so levelled against the present accused person are of u/s 303(2) and u/s 317(2) of the BNS and there is no material in the case record to show that any wrongful gain or wrongful loss was caused, hence prays for bail on any stringent condition. Learned Advocate further files a photocopy of Certificate of Registration showing his ownership of the alleged vehicle.

Learned Public Prosecutor, on the other hand, raised formal objection and drawn the attention of the Court to the seizure list as well as the notice served u/s 47 and u/s 35 of the BNSS. That apart, Learned Public Prosecutor has also drawn the attention of the Court to the last page of the case diary, wherein the Investigating Officer of this case has sought for vehicle particulars of the vehicle No. WB-69A-2305 on 27.02.26, but he also mentioned that he received the owner's details of vehicle No.WB-85A-1034. This vehicle has no relevance with the present case and prays for necessary direction upon the Investigating Officer to appear with vehicle particulars.

Having heard the submission of Learned Advocate of both sides and upon perusal of the materials on record so far collected the Investigating Officer, it is seen that in terms of Section 21 of Mines and Minerals (Development and Regulation) Act, the cognizance of the offence punishable u/s 21 of Mines and Minerals Act is barred, unless the complaint has been made by an appropriate authority empowered vide Notification No.89-CI/Gr-D/4M-30/88 dated 24.1.1991. Therefore, if the applicability of Section 21 has been minimized, then other provisions incorporated in the FIR relates to theft and there is no such material to show that there was a wrongful loss or wrongful gain or dishonesty at this juncture. Hence, prayer for anticipatory bail is considered and **allowed.**

In the event of arrest, the accused/petitioner **Saddam Hussain** may find bail of **Rs.3,000/-** with two sureties of **Rs.1,500/-** each of like amount, subject to the satisfaction of the arresting authority and on condition that he shall comply with the requirements as enumerated u/s 482(2) of the BNSS.

Let a copy of this order along with LCR be sent to the learned CJM, Alipurduar for information and taking necessary action.

Thus, the instant Criminal Misc case is disposed of.

Dictated & corrected
by me

Sd/-
Sessions Judge, Alipurduar
IN-CHARGE.

Sd/-
Sessions Judge, Alipurduar.
IN-CHARGE.

OFFICE OF THE DISTRICT & SESSIONS JUDGE,
ALIPURDUAR.

Memo No.

Dated

Copy of order forwarded to :

- 1) Ld. CJM, Alipurduar along with LCR being G.R.318/2026.**
- 2) *The I.O.*

Sessions Judge, Alipurduar.
IN-CHARGE.

