

In the Court of District & Sessions Judge, Alipurduar.

Criminal Misc. Case No.462/2026

(CNR No.WBJP05-001130-2026)

Present : Sri Saugata Chakraborty, (WB00767)

Additional District & Sessions Judge-II,

In-Charge of Sessions Judge,

Alipurduar.

Shambhu Roy.....accused/petitioner -Vs- State of W.B,

Order No.2, dt.10.06..26.

This is an application U/S 483 BNSS filed by accused/petitioner **Shambhu Roy**, the resident of Pakuritala, Tapshikhata, P.S. Alipurduar, Dist. Alipurduar, in connection with Alipurduar P.S. Case No.528/2024 dt. 17.12.24, u/s 126(2)/117(4)/103(2) of BNS, corresponding to G.R. Case No.2267/2024.

Ld. Advocate for the accused submitted that no bail application has been filed or pending before the higher Court.

Referring to the Criminal Misc Case No.911 of 2025 dated 24.10.25, Learned Advocate appearing for the petitioner Shambhu Roy has stated that this Shambhu Roy was shown as arrested on 19.05.26 in Alipurduar P.S. Case No.528 of 2024 and that the petitioner is not named in FIR and that the petitioner is not local person and that the Learned Sessions Judge, Alipurduar, in Criminal Misc Case No.911 of 2025 granted bail to another accused Pawan Mahato on the ground of his name not appearing in the FIR. It is also contended that Pawan Mahato who is on bail, is a resident of the locality where the offence took place, but the present petitioner is resident of a place miles away and for that reason the involvement of the perspective of the present petitioner is not established in the alleged crime and that the petitioner may be released on bail on any condition.

Ld. P.P has fairly submitted that he received the case diary on this day in the morning and is not given sufficient time to peruse it. Very fairly Ld. P.P has further submitted that page-137 of the case diary may be looked at which recording of a statement dated 20.05.26 of the present petitioner. Ld. P.P has further stated that the involvement and perspective cannot be concluded on the basis of resident or non-resident but it can be inferred from the presence at a relevant point of time which is clearing from the statement.

Heard both sides.

Perused the case record as the case diary.

I have carefully gone through the materials on record including the case diary.

The Alipurduar P.S Case No.528 of 2024 dated 17.12.24 u/s 126(2)/117(4)/103(2) of the BNS was started on a complaint made by one Police Officer of the same P.S appertaining to an occurrence of murder of one lady or mob lynching of the murderer of the said murder committed by around 100 unruly mob. The perspective of each of the person consisting the crowd is enough to constitute the offence of murder.

The liability of the voluntarily causing death of a person is fixed on each and every persons assembled in that place at the relevant point of time. This theory rules out status of a person being resident or non-resident at the scene of crime. The present petitioner was shown as arrested in Alipurduar P.S Case No.528 of 2024 with reference to an earlier case where he was statedly granted bail. After that procedure of shown arrest was completed, he was interrogated by the Investigating Officer when at the Correctional Home. On the basis of his statement which was incriminating the Investigating Officer arrested him in this case. The statement of the petitioner recorded on 20.05.26 bears the relevancy to the present case. In my considered view, for the interest of investigation and the status of the case docket being impregnated with materials and considering the extent of complicity of the petitioner, the prayer for bail is **rejected**.

Return CD.

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 :

*Ld. CJM, Alipurduar along with LCR being **G.R. 2267/2024.***

Sessions Judge, Alipurduar.
IN-CHARGE.