

SC Case NO. 100 of 2025
GR No. 3694 of 2024

Order No. 11

Date : 01/09/2025

All ten accused persons are produced from the judicial custody. Ld. Advocates for the accused persons are present in respect of the concerned accused persons. Ld. PP is also representing for the state. At this stage ld. Advocate for the accused Subrata Bala @ Partha filed an application for bail of the accused person. He submitted that this accused was previously arrested by the Chandannagar Police station regarding same allegation. Thereafter again this accused was shown arrest by the police in this case and the previous seizure list was re-seized by the IO. One person can't be tried twice for the same offence. He submitted that said accused is on bail in the said case arising out of Chandannagar Cyber PS case No. 53 of 2023. So he submitted for bail of the accused on any condition. Ld. PP oppose the bail prayer strongly and submitted that default bail was granted in the said case by the ld. District Judge in the previous case at Chandannagar. He submitted that both cases are different and matter of trial.

Thus, considering all aspect I am of the view that bail application of the accused persons was rejected by the court on previous occasion and the case already reached to the trial stage. If bail is granted to the accused, he may evade the process of law. Allegation against the accused is very serious involving multi crore rupees. So, bail prayer of accused Subrata Bala @ Partha is rejected.

Thereafter ld. Advocate for the accused Subrata Mondal and others filed another application form discharge of the accused from the charge **u/s 317(4) of BNS**. According to him this is only section which is sessions triable and other sections are magistrate triable. He submitted that allegation under section **317(4)** regarding habitual receiver of stolen property has to be proved by conviction at least in two cases of similar nature and if it is not proved. Accused can't be framed charge **u/s 317(4)**

of BNS. He said that they waited for the depositions of PW-1 and even after the deposition on chief of PW-1 no such evidence has come to prove that allegation u/s 317(4) of BNS is justified. So, he prayed for discharge of the accused from section 317(4) of BNS. Ld. PP oppose the prayer and submitted that at this stage this application is not maintainable and it should be rejected.

Thus, considering all aspect I am of the view that after framing of charge under section 317(4) of BNS there is no scope for the court to discharge any accused from the said charge. It is also not possible to perused the evidence time to time and to discharge the accused from any charge if there is no evidence come on record. After framing of charge by the court trial has to be ended either by order of acquittal or conviction. There is no scope of discharge of any accused after framing of charge. I have also perused the judgment relied on by the ld. Advocate for the accused in Ajoy Sethi vs State on dated 30/08/2017. In the said judgment Hon'ble Delhi High Court has been pleased to set aside the conviction order of the Court u.s 413 of IPC regarding habitual dealing with stolen property for absence of two conviction proof. This court has not reached to such stage as yet. Evidence not yet concluded. So, the judgment cited by the ld. Advocate is very much helpful to understand the true prospect of law, but not applicable in the instant case. So, prayer for discharge of the accused persons from the charge u.s 317(4) of BNS after framing of charge is considered and rejected.

Thereafter PW-1 SI Kajal Das is cross - examined by the ld. Advocates for the accused persons and deferred.

Seized alamautes are directed to return to the person who brought to the same before the court with a direction for bringing the same next date. BC-1 reported that, Mat Exbt.5/1, 5/2 and 5/3 was not signed on the last date. So, I put my signature today in Mat Exbt.5/1, 5/2 and 5/3. For the ends of justice. BC-1 to do the needful.

To 22/09/2025 for further cross examination

ADJ FTC-2 Bongaon
North 24 Pgs.