

CMC 437 of 2026

Present:- Sri Sutirtha Banerjee
J.O Code : WB 00980
Additional Sessions Judge, Basirhat

Order No. 2 Dated 05/06/2026

This is an application u/s 483 of the BNSS filed on behalf of petitioner 1. Bidhan Sardar, 2) Paresh Sardar, 3) Pabitra Sardar and 4) Paritosh Sardar in connection with Nazat P.S. Case No. 248 dated 06/05/2026 u/s – 329(3)/324(4)/303(2)/115(2)/117(2)/74/3(5) of BNS and section 25/27/35 of Arms Act vide G.R. no. 2101/2026 is taken up for hearing.

At the very outset, Learned Advocate for the petitioner submits before this Court that no application under section 482/483 BNSS with respect to present accused is pending/has been rejected by any superior Court. It is submitted that the accused have been falsely implicated due to a political vendetta and were shown arrested after being arrested in another case. Prayer for bail has been made on any condition.

Ld. P.P-in -Charge opposes the bail prayer of the present petitioners.

Heard both sides. Considered. Perused the case diary.

Accused are F.I.R. named. They are alleged to have ransacked the dwelling house of the de facto complainant and stolen a bike, and outraged the modesty of female folk. There is also allegation of assault by dangerous weapons.

Accused in custody since 13/5/2026. No injury report collected in support of alleged assault; no seizure with respect to ransacked or damaged items either. Accused not taken in police custody since arrest.

I have traversed the entire gamut of this case and the materials exposited in the CD and after such exercise I find that further confinement of the accused persons in judicial custody is not an indispensable necessity for the unhindered investigation in the case especially when since arrest none of the accused have been taken in police custody and no injury report collected with respect to alleged injured.

It is also apposite to add that the Hon'ble Supreme Court in **Dr. Vinod Bhandari v/s. State of Madhya Pradesh AIR 2015 SCW 1052**, has held:-

“12. It is well settled that at pre-conviction stage, there is presumption of innocence. The object of keeping a person in custody is to ensure his availability to face the trial and to receive the sentence that may be passed. The detention is not supposed to be punitive or preventive. Seriousness of the allegation or the availability of material in support thereof are not the only considerations for declining bail.”

Thus mere presence of prima-facie materials must not be the sole criteria of rejection of the bail prayer, especially when bail has been promulgated to be the rule and jail the exception. It is also apposite to add that detention at this stage is not punitive. There is no material to conclude that the accused persons have propensity to win over the witnesses or tamper with the evidence if released on bail.

Hence based on the above delineations the prayer for bail stands allowed.

Accused persons may hence find interim bail of Rs. 2,000/- each with one surety each of like amount subject to satisfaction of Ld. A.C.J.M. Basirhat with further condition to co-operate with investigation, meet the I.O. once a week for one month, to attend Court on each date, not to commit and/or indulge in any act similar to the offence for which they have been indicted in this case and not directly or indirectly making any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade them from disclosing such facts to the Court.

Ld. A.C.J.M., Basirhat shall be at liberty to confirm the interim bail after submission of charge-sheet subject to accused abiding by imposed conditions and in absence of any adverse report.

The G.R. case record along with a copy of order be sent to the Ld A.C.J.M., Basirhat at once.

CD be returned also.

The instant CMC is thus disposed of.

Dictated & corrected by me

Addl. Sessions Judge,Basirhat

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