

CMC 409 of 2026

Present:- Sri Sutirtha Banerjee
J.O Code : WB 00980
Additional Sessions Judge, Basirhat
Order No. 2 Dated 02/06/2026

This is an application u/s 483 of the BNSS filed on behalf of petitioner Samad Gazi in connection with Swarupnagar P.S. Case No. 210 dated 14/05/2026 u/s – 20(1)/21 of Immigration and Foreigner Act and section 12 of PP Act vide G.R. no. 2376/26 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 this accused is pending/has been rejected by any superior Court.

Ld Advocate for the present petitioner submits that Petitioner is innocent and the accusation against him are false. Ld. Advocate for the petitioner prays for releasing the petitioner on bail on any terms and conditions.

Ld. PP-in -Charge opposes the bail prayer of the present petitioner but leaves matter to discretion of the Court.

Perused the materials available in the LCR and the CD. Considered.

Perused the case diary.

Accused is admittedly Indian National.

Case diary shows nothing incriminating qua the accused except statement of co-accused BD National who accused is alleged to have helped enter India without valid documents. Accused was not taken in police custody since after arrest suggesting lack of need of custodial interrogation. In fact case diary shows no progress since arrest.

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 person has propensity to win over the witnesses or tamper with the evidence if released on bail.

NO previous criminal antecedents of the accused were brought forth either.

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

The present petitioner may find interim bail of Rs. 3000/- with one surety subject to the satisfaction of Learned ACJM, Basirhat with further condition to attend Court regularly, to meet the I.O. twice a week for one month or till submission of C.S. whichever is earlier and 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 or tamper with the evidence.

In addition accused person shall within 48 hours of his release from custody submit an affidavit disclosing his present and permanent addresses, contact numbers on which he shall remain available with undertaking not to change the same without intimation to the I.O. and the Court.

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

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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