

**S.T. No. 01(03)2025**  
(CIS Registration No.45 of 2024)  
(J.O. Code: WB00833)

**Order No.03 Dated 03.04.2025**

Accused persons (4) file hazira.

Today is fixed for order in respect of the application dt.18.02.2025 filed by the accused for waiver of bail condition.

Case record is taken up for order.

It appears from the case record that on 28.05.2024, IO of this case submitted charge sheet against the four accused U/s 498A/406/506/509/341/323/354C/354D/313/34 of IPC read with Section 3 & 4 of D.P. Act and Section 66/67A of I.T. Act and Section 5 of M.T.P. Act 1971.

Vide order dt.12.06.2024, all the four accused persons namely Anirban Kundu, Kaushik Kundu, Sudeshna Kundu and Suman Dutta were granted bail with condition of furnishing two sureties of Rs.20,000/- each one of whom must be local with the further condition that they will not leave Kolkata without taking prior permission from the Court.

Through this application dt.18.02.2025, the accused persons had sought waiver of the said condition being **“they will not leave Kolkata without taking prior permission from the Court”**

During the course of hearing, Ld Advocate for the accused/petitioners stated that accused Kaushik Kundu and Sudeshna Kundu are retired for which they are required to travel to their native village for religious purposes. Accused Anirban Kundu is a doctor by profession and he is required to appear in various examination for specialized courses and conferences throughout India and sometimes at a short notice. Suman Dutta was previously attached to Kaushik Kundu as compounder and now after the retirement of Kaushik Kundu, he has to travel across the state in search of jobs. It was further submitted that conditional order of bail is placing serious restrictions and impediments in their religious and educational pursuits.

Objecting to the said application, Ld Advocate for the defacto complainant submitted that accused persons have made bald statements in their application without any proper explanation. Accused persons were arrested after more than 100 days and they had absconded from their permanent residence. They had resorted to suppression of facts and had left no details for the Court to verify their statements. It was further stated that a writ petition is pending before the Hon'ble Court wherein direction was sought for instituting a separate case against the accused persons. Another revisional application has been filed before the Hon'ble Court seeking further investigation in this offence. That Court should secure the presence of the accused persons and ensure that they do not manage to flee from justice. Lastly, rejection of the application was sought for.

Ld P.P. in-charge pointed out that defacto complainant had moved the Hon'ble Court vide CRM(DB) No.2370/2024 for cancellation of bail but the same was rejected by the Court. It was further submitted that charge has been framed and date for evidence has been fixed. That no overt acts have been either alleged or evident which requires continuation of the restriction of their movement beyond Kolkata.

Perused the solemn order of Hon'ble Court in CRM(DB) No.2370/2024. Hon'ble Court appears to have taken cognizance of the fact that charge was framed against the accused persons and accused persons had no previous criminal antecedents. Thereafter it was expressed that "We do not find any requirement to keep any of the private opposite parties in custody pending the trial".

It is not in dispute that accused Anirban Kundu is a medical practitioner and it is quite natural that his vocation requires extensive travel beyond Kolkata for the purpose of his profession or for upgrading his skills through specialization course and conference.

Charge Sheet reflects that accused Kaushik Kundu is presently aged more than 60 years while the accused Sudeshna Kundu is approaching 60years. At this stage having a religious bend is quite normal. Age of the other accused Suman Dutta is less than 50 years and at his age looking for alternative employment is a necessity.

It is true that several matters are pending before the Hon'ble Court which may or may not lead into further investigation or institution of other cases. However no adverse report as to tampering with evidence or intimidating witnesses are before this Court. No overt acts have been alleged by the investigating agency suggesting violation of bail condition.

It also appears that parties permanent hearth and home in Kolkata. Charge has been framed and date for evidence has been fixed. Given the circumstance and the likely inconvenience which the accused persons on account of the restrictions on their movement, it is desirable that the restrictive condition is withdrawn.

Hence, the application dt.18.02.2025 stands allowed.

The condition being "**they will not leave Kolkata without taking prior permission from the Court**" imposed upon the accused persons vide order dt.12.06.2024 at the time of granting bail stands waived.

To date 22.04.2025 for order in respect of the petition for return of streedhan articles and 08.05.2025 for evidence.

*Dict. & Corr. by me,*

*(A. Chatterjee)*  
*Addl. Dist. & Sess. Judge, 2<sup>nd</sup> Court,*  
*Sealdah.*

*(A. Chatterjee)*  
*Addl. Dist. & Sess. Judge, 2<sup>nd</sup> Court,*  
*Sealdah.*

**Later Dt. 03.04.2025 :**

At the time of pronouncement of the order regarding waiver of bail condition, parties are apprised that PO is under order of transfer and if they are available at 4pm then the order in respect of the petition for the return of streedhan articles which was scheduled to be passed on 22.04.2025 may be pre-poned.

Ld Advocates for both sides expressed their availability at 4pm and also seeks passing of the order today at 4pm.

Accordingly, parties are directed to remain present at 4pm.

**Later Dt.03.04.2025 at 4pm :**

Case record is taken up for order in respect of application for return of streedhan articles filed by the defacto complainant on 15.03.2024 before the Court of Ld ACJM, Sealdah. Subsequently another petition was also filed on 07.05.2024 seeking hearing of the petition for return of articles in presence of IO. Another application was also filed by the defacto complainant on 24.05.2024 for return of streedhan items which were seized vide the seizure list dt.12.03.2024 & 14.04.2024.

On 16.07.2024 accused Anirban Kundu filed a petition for receiving back the gold jewellerys, mobile phones, laptops etc which were seized by the police during the course of investigation. Report was also called for from the IO of this case.

Pertinent to mention that seizure list dt.12.03.2024 involves seizure of 63 items from the matrimonial home of the defacto complainant at FE-167, Sector III, Saltlake City, Kolkata – 700106, PS-Bidhannagar.

There is another seizure list dt.14.03.2024 which was made from the lockers (No.531 & 381) of SBI, FE Block, Saltlake Branch being 2 items.

There are other seizure lists in connection with seizure of electronic items.

Report of the IO was submitted on 02.08.2024. The report clearly discloses that all electronic gadgets which includes mobile phones, laptop, hard drive and pendrive seized from the possession has been sent to cyber forensics and Digital Evidence Examiners Laboratory, CID for examination and the report of which is awaited. The IO stated that he **has no objection in respect of return of the seized** items to the defacto complainant except the digital devices being mobile phones, laptops, hard drives.

**In view of the ongoing Forensic examination, none of the electronic gadgets can be returned to the accused.**

It was also noted in the report dt.02.08.2024 that accused persons had raised strong objection and denied that two seized ornaments dt.14.03.2024 are streedhan properties of the petitioner. It was also noted that formal objection of the accused persons were also noted in the seizure list dt.14.03.2024.

So far the gold jewellerys and other items noted in the seizure list dt.12.03.2024 are concerned, the report speaks that some of the gold jewellerys were identified by the defacto complainant during the search and seizure and it was done in the presence of the accused persons and duly video recorded. The said seizure list bears no endorsement of the IO that accused persons had raised objection in connection with the seizure of those 63 items as streedhan properties.

During the course of hearing, Ld Court had asked whether any document was filed regarding ownership of the jewellery which were seized. However, no document could be placed by the petitioner/accused or the defacto complainant regarding receipt or ownership of those items. It was submitted on behalf of the accused that many of the ornaments are

family heirlooms and the defacto complainant out of greed had laid a claim on those items. That most of these items belong to the mother-in-law namely Sudeshna Kundu. It was also submitted that it is a criminal trial and the Court can keep these items in safe custody till conclusion of the case.

However, Ld Advocate for the defacto complainant submitted photographs of the bridegroom at the time of marriage and also during the boubhaat ceremony. It was submitted that a number of gold and silver ornaments were given to the defacto complainant by her father and family members at the time of marriage. There are also gifts and ornaments which were given during the marriage rituals including the boubhaat ceremony or thereafter. All these items are the streedhan properties of the defacto complainant. Attention of the Court was drawn to the jewellery which the defacto complainant was seen wearing in the photograph. During the course of hearing, Ld Advocate placed reliance on the case of *Pratibha Rani vs Suraj Kumar* (1985) 2 SCC 370 and that of *Maya Gopinathan vs Anoop S.B. & Anr* 2024 INSC 334 being a non-reportable decision of the Apex Court.

Ld PP in-charge left it upon the Court to decide the custody of the ornaments and valuable items.

In the case of **Pratibha Rani vs Suraj Kumar**, Hon'ble Court had observed that properties gifted to a woman before marriage, at the time of marriage or at the time of bidding farewell or thereafter are her streedhan properties. It is her absolute property with all rights to dispose at her own pleasure. In the case of **Maya Gopinathan vs Anoop S.B.**, Hon'ble Apex Court while dealing with a matrimonial dispute which had arose before a Family Court, observed that "we have neither been shown nor do we know of any binding precedent that for a claim of return of streedhan articles of money equivalent thereof to succeed, the wife has to prove the mode and manner of such acquisition". Hon'ble Apex Court further took note of the photographs marked as exhibit to appraise the quantum of jewellery she was wearing during the marriage. In the instant case, the defacto complainant had presented 3 photographs showing the defacto complainant in the bride's attire decked with jewellery.

The photograph of the defacto complainant in magenta saree probably on the day of reception was filed on her behalf. In the said photograph, defacto complainant is seen to be wearing a gini gantha necklace (necklace with gold coins attached with a chain) and a panch lahari necklace with a pair of earrings and taana (necklace with five rows of chain and pendants with matching earring with chain).

In view of the provisions of Section 451 of CrPC, the Trial Court may order proper custody of seized properties if it is expedient to do so. The two seizure lists dt.12.03.2024 & 14.03.2024 contain items being several gold ornaments, silver ornaments, costume jewellery, utensils, costly sarees, leather purse, sunglasses and watches. It appears that the items are kept in the police malkhana. It is not desirable that such valuable items or items of daily use remain in the police malkhana for a considerable period raising the risk of damage and pilferage. It will be proper pending disposal of this case to make an order for interim custody of the items which were seized by the two seizure lists dt.12.03.2024 & 14.03.2024.

In the estimation of this Court, the defacto complainant had prima facie presented a better case to take custody of those items. Hence the interim custody of the seized items vide the seizure lists dt.12.03.2024 & 14.03.2024 ought to be given in favour of the defacto complainant.

No value has been put for the articles involved in both the seizure list but a cursory estimate of the gold and silver items appears to be more than Rs.50,00,000/- as per present market value. Hence, the defacto complainant ought to file a zimma bond of Rs.50,00,000/- prior to receiving the seized items vide the seizure lists dt.12.03.2024 & 14.03.2024. The defacto complainant is further directed not to deal with or change the nature and character of

any of the items of the seizure lists dt.12.03.2024 & 14.03.2024 which have been received by her.

IO of this case is directed to make still or video photography of each and every items which are handed over to the defacto complainant. He is further directed to note the individual weight of each gold/silver items or any valuable items at the time of handing over to the defacto complainant. A report with the photographs of the items be also furnished to this Court after the handover is complete.

Ownership of the items in connection with the seizure lists dt.12.03.2024 & 14.03.2024 will be decided at the conclusion of the trial.

To date (08.05.2025) for evidence.

*Dict. & Corr.by me,*

*Addl. Dist. & Sess. Judge, 2<sup>nd</sup> Court,*  
*Sealdah.*

*Addl. Dist. & Sess. Judge, 2<sup>nd</sup> Court,*  
*Sealdah.*