

Rakesh Pandey @ Chiku Pandey & Ors.
-vs-
The State of West Bengal & Anr.

Mr. Milon Mukherjee, Sr. Adv.
Mr. Dattatreya Dutta ... For the petitioners.

Mr. Soumya Nag
Mr. Aditya Tiwari
Ms. Namrata Chatterjee
Mr. Moyukh MajumderFor the O.P no. 2

Mr. Suman De
Mr. Bikram MitraFor the State

The petitioners herein were arraigned as accused in connection with Kosba P.S Case No. 237/2025 dated 19.06.2025, for their alleged involvement in commission of offence punishable under Sections 115(2)/126(2)/54 of the B.N.S 2023.

The allegations made in the said complaint are inter alia to the effect that on 19.06.2025 at about 7.00 PM. the de facto complainant /opposite party no. 2 herein was examining patients in his clinic, when the petitioners in a drunken condition came to his clinic and assaulted him and his son.

Initially, the instant case was registered under the above mentioned bailable sections and the present petitioner surrender before the court of the learned Magistrate who granted them bail vide order dated 03.06.2025, since the offences were bailable in nature.

Thereafter, the investigating officer on receipt of an injury report made a prayer on 05.06.2025 for adding

section 109/117(2)/351(2) of the B.N.S which was allowed by the learned Court. Thereafter on 11.06.2025 the de facto complainant filed one petition under Section 480(5) of B.N.S.S for cancellation of the bail, already granted to the petitioners vide order dated 03.06.2025.

Thereafter on 30.06.2025, learned Court directed the surety to produce the petitioners on the next date of hearing i.e. 21.07.2025. Due to resolution taken by the bar the case was adjourned to 22.07.2025, when the surety submitted that he informed the petitioners/accused persons over telephone but the accused persons/ petitioners are found absent. The court below accordingly issued warrant of arrest against the petitioner/accused person by the impugned order dated 22.07.2025.

It further appears from the order dated 25.07.2025 that by an order dated 28.07.2025 learned District & Sessions Judge Alipore, refused the anticipatory bail prayer of the accused /petitioner.

Having considered the aforesaid facts and circumstances of the case it appears that the investigation has not yet been completed. It is not in dispute that the petitioners have obtained bail on 03.06.2025. Therefore, petitioners are not required to present before the court until and unless the charge-sheet is submitted or their bail is cancelled.

However, it appears that the investigating agency in the meantime has made an application under section 480(5) of the B.N.S.S with a prayer for cancellation of bail, since according to the petitioner during investigation it revealed

that the offence alleged against the petitioners are non-bailable in nature. However it further appears that said application under Section 480(5) of the B.N.S.S has not yet been disposed of by the Magistrate nor the bail granted to them has yet been cancelled. In such circumstances the issuance of warrant against the petitioners is uncalled for. It is also not clear as to how the anticipatory bail, application of the petitioners were preferred and how it was rejected when the accused persons are already on bail in connection with allegation of bailable offence and when such bail order has not been cancelled as yet.

In such view of the matter the learned Additional Chief Judicial Magistrate, Alipore is directed to dispose of the application under Section 480(5) B.N.S.S within a period of four weeks from the date of communication of this order, after giving opportunity to all the parties to contest, who may be represented either personally or through their legal representatives. The order impugned dated 22.07.2025 by which the court below had issued warrant of arrest against the petitioner and also the order of Learned District & Sessions Judge, passed vide C.M.C No. 2648/25 being order no. 4 dated 28.07.2025 by which anticipatory bail application of the petitioners were rejected are hereby quashed.

C.R.R 3889 of 2025 thus stands disposed of.

(Dr. Ajoy Kumar Mukherjee, J.)