

09.09.2026  
04.  
(D.L.)  
Bd.  
Ct. 29

**CRR 3885 of 2026**

**Ram Avtar Agarwal**  
**Vs.**  
**The State of West Bengal & Anr.**

**Mr. Sandipan Ganguly**  
**Mr. Vikas Baisya**  
**Mr. Dipanjan Dutt**  
**Mr. Soumya Nag ... for the petitioner.**

The instant application under section 528 of the BNSS, 2023 has been preferred by the petitioner seeking quashment of the proceeding being Girish Park Police Station Case No. 106 of 2026, corresponding to GR Case No. 791 of 2026, presently pending before learned Additional Chief Judicial Magistrate, Calcutta.

The impugned prosecution arises out of a complaint lodged by the opposite party no. 2, who was the co-owner of a premises together with his four brothers. The petitioner acting through and as director of BBN Hoteliers Private Limited had purchased an undivided 1/8<sup>th</sup> share in the said premises from the husband of the opposite party no. 2 by a registered deed of conveyance for a total consideration of Rs. 20 crores. The opposite party no. 2, alleges that the petitioner had at the relevant point of time assured her to pay a further sum of Rs. 5 crores towards commission for her assistance in negotiating and facilitating the sale. It is also alleged in the complaint that thereafter he established physical relationship with her against her will under threat and

inducement and despite repeated assurances, the petitioner never paid the said amount of money and therefore the allegation of cheating as well as allegation of sexual intercourse by deceitful means have been leveled against the petitioner.

Being aggrieved by the aforesaid proceeding, learned counsel for the petitioner submits that the petitioner is aged about 72 years and the defacto-complainant/opposite party no. 2 herein is aged about 52 years. Even if the entire allegation made in the application is taken at their highest does not disclose the ingredient of cheating or of any offence under section 69 of the BNS. In fact, the impugned proceeding constitutes a malafide, belated and vexatious attempt to extort money and to abuse the process of the court.

He further pointed out that from the FIR it is clear that the alleged occurrence took place on and from 01.01.2012 till 28.07.2026 and the FIR was registered only on 01.08.2026 i.e., after 14 years of the alleged first date of occurrence. The petitioner nowhere explained the reason of such inordinate delay. Moreover, the alleged deed was executed on 6<sup>th</sup> September, 2012 in respect of which 25% commission has been claimed. Therefore, the unexplained delay clearly manifests the mala fide nature of proceeding.

He submits that further continuation of the said criminal proceeding under the said allegations will be a mere abuse of the process of the Court.

Having heard learned counsel for the petitioner, the application is admitted.

Petitioner is directed to serve a copy of application upon the State through the office of the Public Prosecutor, High Court, Calcutta and upon the opposite party no. 2 through Inspector-in-Charge Girish Park Police Station, Calcutta, intimating next date of hearing and to file affidavit of service on the returnable date.

Let the matter be listed under the heading "Contested Application" in the monthly list of November, 2026.

Learned counsel for the petitioner also prays for interim relief.

Having heard learned counsel for the petitioner and that the petitioner has made out an arguable case, which requires adjudication on merit and that custodial interrogation may not be warranted at this stage as appearing from the facts and circumstances of the case, let the investigation continue but the investigating agency shall not take any coercive steps against the petitioner for a period of 12 (twelve) weeks from date or until further order, whichever is earlier on condition that the petitioner shall make all sorts of co-operation with the investigating agency.

However, pendency of the instant proceeding will not prevent the investigating agency to submit a final report in either form after completion of investigation.

**(Dr. Ajoy Kumar Mukherjee, J.)**