

**IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI
CRIMINAL REVISIONAL JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Md. Shabbar Rashidi

C.R.R. 238 of 2026

**Dr. Bidyapati Chatterjee
-Vs-
*State of West Bengal***

For the petitioner : Mr. Ajay Singhal, Adv.

For the State : Mr. Avrojoyti Das, Ld. APP
Ms. Ruchika Agarwala, Adv.
Mr. Rajdeep Das, Adv.

Heard on : 20.07.2026

Judgment on : 20.07.2026

Md. Shabbar Rashidi, J. :-

1. Affidavit-of-Service is taken on record.
2. The instant revisional application has been filed by the petitioner challenging the Order No.1 dated June 22, 2026. By the impugned order, the learned 1st Additional Sessions Judge, Siliguri disposed of the Criminal Revisional Application filed by the petitioner being Criminal Revision Application No. 16(06) of 2026.

3. The learned 1st Additional Sessions Judge, Siliguri, in the impugned order, held that any person aggrieved by an order directing execution of bond may prefer an appeal under Section 414 of the BNSS. There was no scope for filing or preferring any revisional application. On such ground i.e. no revisional jurisdiction was available to the petitioner against an order passed under Section 136 of the BNSS, the petitioner had preferred the revisional application which was disposed of and was not admitted.

4. From the materials on record, it transpires that a notice under Section 130 of the BNSS was issued against the petitioner, proposing to initiate a proceeding under Section 126 of the BNSS. Such notice was issued on May 12, 2026 preceded by some information received by the Special Executive Magistrate in pursuance of Khalpara Top-II P. S. GDE No.284 of 2026.

5. The petitioner, upon service of such notice, challenged the notice before the learned 1st Additional Sessions Judge, Siliguri. It was the contention of the petitioners that at the time, when the alleged notice was served upon the petitioner, the petitioner was away in Chennai on medical grounds. He was undergoing medical treatment at Chennai. The aforesaid challenge by the petitioner was registered as Criminal Revision No. 16(06) of 2026 before the learned Sessions Judge, Siliguri which was transferred to the learned 1st Additional Sessions Judge, Siliguri. The learned 1st

Additional Sessions Judge, Siliguri disposed of the aforesaid revisional application with a finding that a revisional application against an order passed under Section 136 of BNSS was not tenable. It was held that the petitioner ought to have preferred an appeal against such order under Section 414 of Bharatiya Nagarik Suraksha Sanhita, 2023 (for short, 'BNSS').

6. At the time of hearing, learned Advocate for the petitioner submits that the petitioner, by filing the Criminal Revisional Application No. 16(06) of 2026, had challenged the very issuance of notice under Section 130 of the BNSS contemplating the initiation of a proceeding under Section 126 of the BNSS. There was no order under Section 136 of the BNSS to challenge the same under an appeal under Section 414 of the BNSS and the revisional application against issuance of such notice was very much available to the petitioner.

7. Learned Advocate appearing for the petitioner conceded to the arguments made on behalf of the petitioner.

8. Section 414 of the BNSS reads as follows:

“414. Any person,-

(i) who has been ordered under section 136 to give security for keeping the peace or for good behaviour; or

(ii) who is aggrieved by any order refusing to accept or rejecting a surety under section 140,

may appeal against such order to the Court of Session:

Provided that nothing in this section shall apply to persons the proceedings against whom are laid before a Sessions Judge in accordance with the provisions of sub-section (2) or sub-section (4) of section 141.”

9. Section 126 of the BNSS reads as follows:

“126. (1)When an Executive Magistrate receives information that any person is likely to commit a breach of the peace or disturb the public tranquillity or to do any wrongful act that may probably occasion a breach of the peace or disturb the public tranquillity and is of opinion that there is sufficient ground for proceeding, he may, in the manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond or bail bond for keeping the peace for such period, not exceeding one year, as the Magistrate thinks fit.

(2)Proceedings under this section may be taken before any Executive Magistrate when either the place where the breach of the peace or disturbance is apprehended is within his local jurisdiction or there is within such jurisdiction a person who is likely to commit a breach of the peace or disturb the public tranquillity or to do any wrongful act as aforesaid beyond such jurisdiction.”

10. Section 130 of the BNSS reads as follows:

“130. When a Magistrate acting under section 126, section 127, section 128 or section 129, deems it necessary to require any person to show cause under such section, he shall make an order in writing, setting forth the substance of the information received, the amount of the bond to be executed, the term for which it is to be in force and the number of sureties, after considering the sufficiency and fitness of sureties.”

11. It is submitted on behalf of the petitioner that the alleged notice served upon the petitioner did not contain the details of the allegation made against the petitioner. It merely stated that the learned Special Executive Magistrate was satisfied on reports and issued the notice under Section 130 of the BNSS. Section 130 of the BNSS, as noted above, provides for issuance of show-cause notice if the learned Magistrate deems it necessary to require any person to show-cause under the said Section. The provisions contained under Section 130 makes it mandatory upon learned Magistrate, he shall make an order in writing, setting forth the substance of the information received. The issuance of such notice was challenged by the petitioner in the revisional application before learned 1st Additional Sessions Judge, Siliguri since it did not state the substance of information received by the learned Magistrate.

12. Section 136 of the BNSS reads as follows:

“136. If, upon such inquiry, it is proved that it is necessary for keeping the peace or maintaining good behaviour, as the case may be, that the person in respect of whom the inquiry is made should execute a bond or bail bond, the Magistrate shall make an order accordingly:

Provided that-

(a) no person shall be ordered to give security of a nature different from, or of an amount larger than, or for a period longer than, that specified in the order made under section 130;

(b) the amount of every bond or bail bond shall be fixed with due regard to the circumstances of the case and shall not be excessive;

(c) when the person in respect of whom the inquiry is made is a child, the bond shall be executed only by his sureties.”

13. Admittedly, since the notice itself was challenged by the petitioner before the revisional court, there is nothing on record to demonstrate that the proceedings under Section 126 was taken up by the learned Magistrate or an order under Section 136 of the BNSS was passed in such proceeding.

14. Section 414 provides for appeal when any person has been ordered under Section 136 to give security for keeping the peace or for his good behaviour and who is aggrieved by any order refusing to accept or reject surety under Section 140 of the BNSS. No event as contemplated in Section 414 of BNSS did happen. The petitioner was neither directed to give security for good behaviour or for keeping peace, nor the security furnished by the petitioner was rejected. Therefore, there was no order against which an appeal would lie. As noted above, the petitioner challenged very issuance of a notice under Section 130 of the BNSS on various grounds. An order of issuance of such notice could surely be challenged in a revisional jurisdiction.

15. In view of the discussions made hereinbefore, the impugned order is hereby set aside.

16. The learned 1st Additional Sessions Judge, Siliguri shall hear and dispose of the revisional application being criminal revision No.16 (06) of 2026 as expeditiously as possible. The stay of the proceeding under Section 126 of the BNSS granted in this proceeding shall continue until the disposal of Criminal Revision No.16(06) of 2026.

17. CRR 238 of 2026 is, accordingly, disposed of.

18. Urgent photostat certified copy of this judgment, if applied for, shall be given to the parties, as expeditiously as possible on compliance of all necessary formalities.

(Md. Shabbar Rashidi, J.)

S. A.