

11.08.2025
Item No.34
Ct. No. 446
RP
Allowed

C.R.M.(A) 2759 of 2025

In Re:- An application for anticipatory bail under Section 438 of the Code of Criminal Procedure, 1973 corresponding to Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023, in connection with **Airport** Police Station Case No. **87** of **2025** dated **01.06.2025** under Sections **115(2)/74/351(2)/3(5)** of the Bharatiya Naya Sanhita pending before the Court of the Learned Special Judge under POCSO Act, Barrackpore, North 24 Parganas.

And

In the matter of : XXXX & Anr.

..... petitioners

Mr. Kallol Mondal, Sr. Adv.
Mr. Krishan Ray,
Mr. Anamitra Banerjee
Mr. Akbar Laskar

....for the petitioners

Mr. Anwar Hossain
Mr. S. Baliwal

....for the State

1. Affidavit-of-service filed in Court today be kept on record.
2. Argument advanced on behalf of the learned senior counsel that false and malicious case made out by the de facto complainant against a septuagenarian person out of her utter frustration and grudge against the judicial system whereby her ill intention to mould the civil dispute in criminal cases has been remained unsuccessful.
3. The genesis of this case lies upon a marital discord followed by an order passed by a Division Bench of this Court over a right of visitation to the father to his 7 year

old daughter. The matrimonial suit was filed for a decree of divorce has dismissed against the husband and in appeal preferred against the same a visitation order was passed in favour of the husband which was not complied with. In terms of the order dated 22.05.2025 the de facto/mother was to handover the child to the petitioner no.2 every Friday at 6 P.M. at the residence of the father and to return on same day. This order was later modified and specific direction was given to the mother that in case of non-compliance the Court shall consider handing over the custody of the minor to the appellant. Since the husband was preparing to take appropriate step for non-compliance with such direction the de facto lodged the compliant with a concocted story on 1.6.2025. A coordinate Bench of this Court allowed an application under Section 483 of BNSS and the said petitioner spent 24 days behind the bar.

4. On perusal of the said order it reveals that the de facto complainant pressed that the allegation made in the heat of the moment and she had no intention to put her in-laws and husband behind the bar.
5. In such backdrop the present petitioner, being the grandmother, a septuagenarian lady, and the uncle aged about 66 years have come before this Court for protection

under Section 482 of BNSS since there is ample apprehension of arrest.

6. The prosecution raises no such objection.
7. Heard the submissions of the learned defence counsel, prosecution and de facto complainant. Perused the content of the complaint which gives the description of the incident and primarily shows the circumstances and the nature of allegation levelled. On consideration of the statements recorded under Section 180 of BNSS of the various witnesses and the statement made under Section 183 of BNSS by the victim child and going through the order, which in no way can be said to have any incriminating substance and direction passed by the Appellate Court as well as the coordinate Bench of this Court allowing the prayers under 483 BNSS this Court is inclined to extend the benefit of Section 482 of BNSS in favour of the petitioner.
8. Accordingly, the prayer for anticipatory bail to the petitioner is allowed.
9. In the event of arrest, the petitioner shall be released on bail upon furnishing a bond of Rs.5,000/- (Rupees Five Thousand only) each, with two sureties of like amount each, one of whom must be local, to the satisfaction of the arresting officer and also be subject to the conditions as laid down under Section 482(2) of the BNSS and in case

of violation of any of such provision the prosecution will be at liberty to pray for cancellation of anticipatory bail granted without further reference to this Court.

10. This application for anticipatory bail is, thus, disposed of as allowed.

(Chaitali Chatterjee (Das), J.)