

26.03.2025
35 & 36
Court No.26
S.D.

C.R.M (DB) 3716 of 2024

In re: An Application for cancellation of bail under Section 483 (3)
of the BNSS.

-And-

In the matter of: Aiyub Anchhar

... .. Petitioner

With

C.R.M (DB) 3527 of 2024

In Re:- An application for bail under Section 483 of the
BNSS, 2023 in connection with **Kaliyaganj** Police Station Case
No. **212** of **2019** dated **16.09.2019** under Sections
143/341/447/326/302/307 of the Indian Penal Code, 1860.

And

In Re : **Dalil Mia @ Dalil Miah & Anr**

..... petitioners

Mr. Amit Roy

Mr. Tanmoy Biswas

Ms. Antara Mukherjee

...For the Petitioner in C.R.M. (DB) 3716 of 2024
and For the defacto complainant
in C.R.M. (DB) 3527 of 2024

Mr. Ayan Bhattacharya, Sr. Adv.,

Mr. Sheraqul Hoque

Ms. Mitul Hajra

...For the Petitioner in C.R.M. (DB) 3527 of 2024 and
For the O.P. No. 2 in C.R.M. (DB) 3716 of 2024

Mr. Rana Mukherjee, Ld. A.P.P.

Ms. Baisakhi Chatterjee

...For the State

C.R.M. (DB) 3716 of 2024 is an application for cancellation of bail granted to the private opposite parties by the Coordinate Bench on September 11, 2024.

Learned advocate appearing for the petitioner submits that the private opposite parties immediately after being enlarged on bail committed arson on the property belonging to the petitioner. He submits that the private opposite parties are guilty of post bail misconduct.

Learned Additional Public Prosecutor appearing for the State draws the attention of the Court to the materials in the case diary. He submits that trial is in progress.

We required the State to produce the case diary relating to the police case in respect of the arson which the State did.

Learned senior advocate appearing for the private opposite parties submits that the alleged incident of arson is claimed to be occurring within 13 days from the date of release from custody. He submits that the private opposite parties were in custody in excess of four years at the time when the bail was granted to them.

We perused the materials in the case diary relating to the police case of arson. There are two statements recorded under Section 183 of the B.N.S.S. by the defacto complainant and the family member of the defacto complainant. One of the statements recorded under Section 183 of the B.N.S.S.

names the private opposite parties as persons who put the fire at the house and was seen to be running away.

Two neighbours recorded statement under Section 183 of the B.N.S.S. Those two neighbours, however, did not name the private opposite parties before us as persons seen at the place and time of the occurrence of the crime.

The claim of the defacto complainant and the family member of the defacto complainant with regard to the post bail misconduct is not corroborated by independent witnesses as appearing from the materials in the case diary presently available with regard to such police case.

Police is yet to file charge sheet in respect of the police case relating to arson.

In such circumstances, we are of the view that the petitioner is unable to establish post bail misconduct of the private opposite parties warranting cancellation of bail granted to the private opposite parties by the Coordinate Bench.

We find no merit in the present application.

C.R.M. (DB) 3716 of 2024 is dismissed.

C.R.M. (DB) 3527 of 2024 is an application for grant of bail.

Petitioners here are in custody in excess of five years. There is hardly any possibility of the trial ending any time soon in the near future. Prosecution filed an application for adducing further prosecution witnesses which was allowed

albeit curtailing the number of prosecution witnesses. On a revisional application, the High Court was pleased to stay the trial.

Purely on the ground of Article 21 of the Constitution of India and taking into consideration the period of the custody of the petitioners, we grant bail to the petitioners.

Accordingly, we direct that the petitioners shall be released on bail upon furnishing a bond of Rs. 10,000/- (Rupees Ten Thousand only) each with two sureties of like amount each, one of whom must be local, to the satisfaction of the **Learned Chief Judicial Magistrate, Raiganj, Uttar Dinajpur** subject to the condition that the petitioners shall appear before the learned trial court on every date of hearing until further orders and shall not intimidate witnesses and/or tamper with evidence in any manner whatsoever.

In the event, the petitioners fail to comply with the conditions as enshrined hereinbefore, it is open to the trial court to cancel the bail without further reference to this Court.

The prayer for bail of the petitioners is **allowed**.

C.R.M.(DB) 3527 of 2024 is disposed of.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)