

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

CRM (DB) 80 of 2025

Md. Aslam Tarikul Aman

Vs.

The State of West Bengal & Anr.

For the petitioner

:Mr. Arnab Saha, Adv.

Md. Shoaib Akhtar, Adv.

For the Respondent No.2

:Mr. Soham De Dhara, Adv.

Ms. Esha Acharya, Adv.

Mr. Sampad Das, Adv.

Ms. Avipsha Dutta Roy, Adv.

Mr. Farhad Iman, Adv.

For the State

:Mr. Aditi Shankar Chakraborty, Ld. APP

Mr. Sourav Ganguly, Adv.

Heard On

:29.07.2025

Judgment On

:02.08.2025

Bibhas Ranjan De, J. :

1. This is an application for cancellation of bail preferred under Section 483 (3) of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter referred to as BNSS) in connection with Bhaktinagar Police Station Case No. 1172 of 2024 dated 19.12.2024 under Sections 318(4)/ 319(2)/ 336(2)/ 336(3)/338/340(2)/61(2) of the Bharatiya Nyaya Sanhita, 2023 (hereinafter referred to as BNS) corresponding to G.R. case no. 6340 of 2024 presently pending before the Court of Ld. Chief Judicial Magistrate at Jalpaiguri wherein the opposite party no. 2 had preferred an application for anticipatory bail in the Court of Ld. Sessions Judge, Jalpaiguri and vide the impugned order dated 27.12.2024 the Ld. Vacation Judge was pleased to allow such prayer of pre-arrest bail in favour of the opposite party no. 2 upon furnishing bond of Rs, 10,000/- along with other conditions as enumerated under Section 482 (2) of BNSS. Subsequently, the opposite party no. 2 surrendered before the Ld. Chief Judicial Magistrate and obtained bail. Being aggrieved with the impugned order dated 27.12.2024, the petitioner has filed this

instant application seeking cancellation of the anticipatory bail granted to the opposite party no. 2.

2. Ld. Counsel, Mr. Arnab Saha, appearing on behalf of the petitioner has mainly canvassed his argument on the point of several criminal antecedents of the opposite party no. 2. In support of his argument, he has referred to a voluminous list of cases which are pending against the opposite party no. 2. With assistance of the track record of cases pending against the opposite party no. 2, Mr. Saha has tried to make this Court understand that the accused herein is a history sheeter and repeat offender. He has further submitted that the accused has blatantly disregarded and violated the terms of the impugned anticipatory bail order thereby misusing the liberty conferred upon her by the Ld. Vacation Judge. Therefore, immediate intervention and cancellation of the anticipatory bail has been sought for on behalf of the petitioner for securing the ends of justice.

3. Before parting with, Mr. Saha by referring to the status of pending investigation in connection with Bhaktinagar Police Station Case No. 1172 of 2024 has vociferously argued that this is a case relating to forgery, fabrication of sale deed by

endorsing fake signature and false personation which is very intricate and complex in nature and therefore the accused has to be kept in custody in order to properly investigate and address all the allegations involved here. Therefore, the petitioner has strongly opposed the grant of pre-arrest bail to the opposite party no. 2 at the very nascent stage of purported investigation.

4. In support of his contention, Mr. Saha has relied on the following cases:-

- ***Pratibha Manchanda & Ors, vs. State of Haryana & Ors, (2023) 8 SCC 181***
- ***Kathyayini vs. Sidharth P.S. Reddy and Ors., MANU/SC/0888/2025***
- ***Sumitha Pradeep vs. Arun Kumar C.K. and Ors, (2022) 17SCC 391***
- ***Anil Kumar Yadav and ors. vs. State (NCT) of Delhi and Ors., (2018) 12 SCC 129***
- ***Sudhir and Ors. vs. The State of Maharashtra and Ors., (2016) 1 SCC (LS) 48***
- ***Imran vs. Mohammed Bhava and Ors., (2022) 13 SCC 70***

5. Per contra, Ld. Counsel, Mr. Soham De Dhara, appearing on behalf of the opposite party no. 2 has denied all the assertions made at the behest of the petitioner and submits that the petitioner had earlier filed another case against the opposite party no. 2 wherein also the accused was enlarged on anticipatory bail. In this regard, Mr. Dhara has contended that one title suit being no. T.S. 275/24 is already pending between the parties to this instant application. Before parting with, Mr. Dhara has argued that there has been no violation of any of the conditions imposed on the accused/opposite party no. 2 and accordingly states that there is no infirmity or perversity in the order impugned. Therefore, at this juncture interference of this Hon'ble Court is not required at all.

6. Ld. Counsel has taken assistance of the following case in order to further strengthen his argument:-

- **Prabhakar Tewari vs. State of Uttar Pradesh and another, (2020) 11 Supreme Court Cases 648.**
- **Mahipal vs. Rajesh Kumar @ polia and another, (2020) 2 SCC 118**
- **Rajiya vs. State of Haryana, 2024 (2) RCR (Criminal) 568**

- 7.** Whereas, Ld. A.P.P, Mr. Aditi Shankar Chakraborty, appearing on behalf of the State, on being asked, has submitted that there is no alleged violation of any of the terms and conditions of the anticipatory bail order at the behest of the accused/opposite party no. 2.
- 8.** I have carefully gone through all the cases relied on behalf of the parties to this revision application. After perusal of the same, it has come to my notice that the cases relied on behalf of the petitioner have mainly highlighted the fact that while considering the prayer for cancellation of anticipatory bail it has to be kept in mind that no prejudice is caused to the free, fair and full investigation. The nature of offence should be looked into along with the severity of the punishment. Even if custodial interrogation is not required, that itself cannot be a ground to grant of anticipatory bail. It has been also suggested that no such bar exists against prosecution if the offences punishable under criminal law are made out against the parties to the civil suit. However, it would be pertinent to mention that the factual matrix and attending circumstances underpinning the precedential authority cited by the Ld. Counsel appearing on behalf of the petitioner, bear no

substantial resemblance to the intricate tapestry of the facts that characterize the present matter before this Court.

9. Before venturing into the intricacies of the case at hand, for just adjudication it would be relevant to first reproduce the impugned order dated 27.12.2024 which reads as follows:-

“Order No. 02, dated-27.12.2024,

The record is put up on the basis of put up petition filed by the Ld. Lawyer for the accused petitioner.

The application under Section 482 of the B.N.S.S. filed by accused-petitioner, namely, 1)Farha @ Farah Naaz praying for anticipatory bail in connection with Bhaktinagar P.S. CaseNo.1172/2024 dated 19.12.2024, u/s- 318(4)/319(2)/336(2)/336(3)/338/340(2)/61(2) of B.N.S, corresponding to G.R. Enc No 6340/2024, is taken up for hearing.

Heard both the sides.

Perused the materials on record and the case diary. Considered.

Learned lawyer for the accused-petitioner Farha @ Farah Naaz submitted that earlier this defacto complainant filed another case bearing number Bhaktinagar case no. 923/24 dt. 8.10.24 u/s 318(4)/336(2)/338/340(2)/61(2) of B.N.S and the Ld. Session Judge was pleased to allow the anticipatory bail petition of this accused. He also submitted that another title suit being no. T.S 275/24 also filed by this defacto complainant

against this accused person. It clearly shows that this defacto complainant is trying to resist this accused petitioner from transferring any part of the property which was inherited from some illegal benefit.

Ld. Advocate for the defacto complainant submitted that this accused person in one of the deed mentioned herself as a grand daughter of a person who is actually her uncle.

Ld. P.P submitted that investigation is in progress and raises objection.

Considering the CD it appears that the alleged deed is already been registered before ADSR, Bhaktinagar, Jalpaiguri and the dispute is purely civil in nature for which no custodial interrogation is required of this accused petitioner.

Considering all the above facts and circumstances, there appears no cogent reason to send the present accused-petitioner behind bar and accordingly prayer for anticipatory bail submitted by the above-named accused-petitioner in connection with above referred case, stands allowed.

Accordingly, accused-petitioner, namely, 1) Farha @ Farah Naaz, in the event of their arrest in connection with the above referred case, may find interim bail of Rs.10,000/- with two (2) sureties of Rs. 5,000 cash, subject to condition that she will help the I.O of this case in the investigation as and when required and subject to satisfaction of the arresting officer, on

condition that she shall comply with the requirements as enumerated under Sec.482(2) of 11. B.N.S.S.

Let a copy of this order along with L.C.R be sent to the learned Chief Judicial Magistrate, Jalpaiguri, for information and taking necessary action.”

10. Having heard the Ld. Counsel appearing on behalf of the parties as well as after going through the materials on record including the impugned order, the sole determining factor that has to be adjudicated is whether an application for cancellation of anticipatory bail be granted on the basis of criminal antecedents of the accused.

11. In this regard, it would be pertinent to first address the issue of alleged violation of the terms and conditions of the impugned order by the accused/opposite party no. 2. After hearing the rival contentions on this issue as well as after hearing Ld. Counsel Mr. Chakraborty appearing on behalf of the State, there is no substantial indication towards alleged non-violation of the conditions imposed on the part of the accused. Therefore, this issue raised at the behest of the petitioner has no legs to stand.

12. With respect to the second limb of argument regarding forgery, fabrication, fake signature and false personation, Mr. Saha has suggested that the accused/opposite party no. 2 herein is required to be kept in custody in order to properly address the veracity of such claim but in my humble opinion there is no requirement for cancellation of the anticipatory bail on this score only as all these issues can be duly addressed by the Court itself during the course of trial.

13. Now coming to the main point of contention involved in this application with regard to criminal antecedents of the accused/opposite party no. 2, in this regard it would be axiomatic to reiterate the settled proposition of law enunciated by the Hon'ble Apex Court in a plethora of cases which is to the effect that cancellation of anticipatory bail requires supervening circumstances or misconduct. Not merely the existence of criminal antecedents. Multiple judgments clarify that anticipatory bail can be cancelled if it was obtained by concealing material facts or misrepresentation, or if the accused misuses liberty, interferes with investigation, tampers with witnesses or commits misconduct after bail is granted then only in such cogent and overwhelming circumstances

necessary order directing the cancellation of bail can be recorded. Therefore, the order of cancellation hinges on the aforesaid grounds and not merely on prior criminal record. The Hon'ble Apex Court is also of the view that cancellation of bail is a harsh measure and should be based on significant reasons and not just prior antecedents.

- 14.** The Hon'ble Apex Court has reiterated in several instances that bail once granted, should not be cancelled in a mechanical manner without considering whether any supervening circumstances have rendered it no longer conducive to a fair trial to allow the accused to retain his/her freedom by enjoying the concession of bail during trial. Having said that, in case of cancellation of bail, very cogent and overwhelming circumstances are necessary for an order directing cancellation of bail (which has been already granted). ***In this regard, the Hon'ble Supreme Court has specifically laid down the grounds for cancellation of bail which are:***

(i) interference or attempt to interfere with the due course of administration of Justice;

(ii) evasion or attempt to evade the due course of justice;

(iii) abuse of the concession granted to the accused in any manner;

(iv) Possibility of accused absconding;

(v) Likelihood of/actual misuse of bail;

(vi) Likelihood of the accused tampering with the evidence or threatening witnesses.

15. In the light of the aforesaid discussion, if I shift my focus towards the case at hand while keeping an eye to the settled proposition of law in this regard, I find hardly any scope to interfere with the impugned order which in my humble opinion suffers from no infirmity or irregularity as in no stretch of my imagination it can be said that the impugned order suffers from non application of mind on the part of Ld. Vacation Judge as none of the grounds enumerated herein above can be said to be applicable to the factual matrix of this case. Moreover, the contents of the impugned order would further clarify that it was passed after hearing both sides and catering to all the attending circumstances.

- 16.** In the premises set forth above, the instant application being no. CRM (DB) 80 of 2025 being found entirely destitute of merit and wanting in all legal virtue, stands dismissed.
- 17.** All parties to this revision application shall act on the server copy of this order downloaded from the official website of this Court.
- 18.** Urgent Photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

[BIBHAS RANJAN DE, J.]