

CRM (DB) 128 of 2025

In re: An application for bail under Section 439 of the Code of Criminal Procedure/Section 483 of the BNSS in connection with **Bhaktinagar Police Station** Case No. **1041 of 2024** dated **08.11.2024** under Sections **103** of the BNS, 2023.

- A n d -

In the matter of : Abishek Darjee & Anr.

.... Petitioners.

Mr. Bhaskar Roy Mohashaya,
Ms. Madhushri Dutta,

... For the Petitioners.

Mr. Aditi Shankar Chakraborty,
Mr. Subhasish Mishra,

... For the State.

1. Learned Advocate for the petitioners and learned State Advocate are present. Head Learned Counsel for the parties.
2. Perused the materials in the case diary. Learned Advocate for the petitioners submits that his clients were not named in the FIR but have been subsequently implicated in the instant case. He submits that the investigation of the case is complete and as all the documents are in the hands of the Investigating Officer, the petitioners have no chance of tampering with the evidence and also no chance to abscond as they are local persons.
3. Learned State Advocate submits that the materials in the case diary will go to show the involvement of the petitioners in this offence. He draws attention to the call list details of the accused persons, the money transaction with regard to one of the accused person Abishek Darjee and the seizure list.
4. FIR of this case was lodged on 08.11.2024, where no accused persons were named. After the investigation is taken up, the investigating Officer on 15.11.2024 went to Tamil Nadu to hold

a raid to apprehend accused persons and detained one accused person, namely Abishek Darjee, the petitioner no. 1. It further appears from the case diary that on the statement of the said accused person, the name of another lady co-accused namely, Pritika Sonar, was also ascertained. Further, the name of the petitioner no. 2 Rustam Biswakarma was also ascertained. Subsequently, it appears from the case diary that the Investigating Officer expressed his apprehension and necessity regarding the arrest of the co-accused Pritika Sonar. It further appears that the name of this Pritika Sonar came from statement of Abishek Darjee and subsequently the name of the petitioner no. 2 came at a later stage. The petitioner no. 1 was arrested on 15.11.2024 and the co-accused persons Arun Portel and Pritika Sonar were also arrested on the self-same date. The petitioner no. 2 was arrested on 16.11.2024. On the arrest of the petitioner no. 2 no incriminating materials were recovered although the Investigating Authority visited his residence but subsequently during investigation there is recovery of one motor bike and some clothes.

5. Learned Advocate for the State submits that the accused persons although they are not principal accused, they were indentified in the T.I. parade. He submits that in the event the petitioners are granted bail, there is a chance to abscond and the trial will be prejudiced.

6. Upon perusal of the case diary and considering the facts and circumstances of the case, it appears that there are materials against both the accused persons and the offence involved is serious in nature.

7. Upon perusing the voluminous case diary and considering the facts and circumstances of the case and upon hearing the learned Advocates for the parties, it would not be reasonable to make any observation with regard to the merits of the case but it is necessary to decide as to whether the petitioners should be released on bail.

8. The Hon'ble Apex Court and different High Courts in the judicial decisions has observed that while considering the prayer for bail the nature of offence, severity of the punishment, nature of the evidence and the chance of abscondence of the accused or to repeat similar offence are to be considered. There is no iota of doubt that offence under Section 302 IPC is heinous but the fact that the petitioners are in custody for about four and half months and charge sheet in the instant case has already been submitted and the total number of witnesses to be examined is 42, it is necessary to decide whether the petitioner should be granted bail.

9. Upon considering the nature of the offence and materials in the case diary it appears that the petitioner no. 2 was arrested from Jalpaiguri district and not outside the jurisdiction of State of West Bengal. Although there are materials against the petitioner no. 2 but considering the nature of allegations and the materials in the case diary against this petitioner compared to other accused persons and the age of the petitioner no. 2, being 19 years, this court is of the view that considering the period of detention and that it may take considerable period of time to complete the trial which involves examination of 42 witnesses and the fact that the petitioner no. 2 is a local person and there is no chance of

repeating such offence or to abscond or to tamper with evidence if stringent conditions are imposed, in the interest of justice the petitioner no. 2 should be granted an opportunity to remain on bail.

10. Therefore, the prayer for bail of the petitioner no. 2 is allowed.

11. Accordingly, I direct that the petitioner no. 2, namely, **Rustam Biswakarma**, shall be released on bail upon furnishing a bond of Rs. 10,000/-, with two sureties of like amount each, one of whom must be local, to the satisfaction of the Learned Chief Judicial Magistrate, Jalpaiguri subject to condition that he shall appear before the trial court on every date of substantive hearing subject to the provisions of Section 317 of the Code of Criminal Procedure, 1973/Section 355 of the Bharatiya Nagarik Suraksha Sanhita, 2023 and shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever. The petitioner shall remain within the jurisdiction of the concerned police station except for the purpose of attending court proceeding and shall meet the O.C./I.C. of the concerned police station twice in a week until further orders. The petitioner shall not go to the place of occurrence and shall not meet the persons acquainted with the facts of the case.

12. In the event the petitioner fails to adhere to any of the conditions stipulated above without justifiable cause, the trial court shall be at liberty to cancel the petitioner's bail in accordance with law without further reference to this court.

13. In so far as the petitioner no. 1, Abishek Darjee, is concerned, his bail prayer stands rejected.

14. The application for bail, being CRM (DB) 128 of 2025 is, thus, disposed of.

15. All parties shall act in terms of server copy of the order downloaded from the official website of this Court.

(Biswaroop Chowdhury, J.)