

**IN THE HIGH COURT AT CALCUTTA
Circuit Bench at Jalpaiguri**

**20.06.2025.
03.
Ct.No.04
as
(Allowed)**

C.R.M. (M) 130 of 2025

In Re:- An application for bail under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with Bhaktinagar P.S. Case No.1041 of 2024 dated 08.11.2014 under Sections 103(1)/61(2) of Bharatiya Nyaya Sanhita, 2023 corresponding to Sessions Case No.104 of 2025.

In the matter of : ***Abhishek Darjee.***

... Petitioner.

Mr. Sandip Guha Roy.

...for the Petitioner.

Mr. Kallol Acharjee, Ld. Sr. Govt. Adv.,

Mr. Aniruddha Biswas.

...for the State.

1. This is an application presented by the petitioner under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (in short, BNSS) in connection with Bhaktinagar P.S. Case No.1041 of 2024 dated 08.11.2014 under Sections 103(1)/61(2) of Bharatiya Nyaya Sanhita, 2023 corresponding to Sessions Case No.104 of 2025.

2. Mr. Guha Roy, the learned counsel appearing on behalf of the petitioner, submits that the petitioner has been in custody for a period of 217 days. He points out that three other co-accused have already been granted bail. He further submits that although the charge sheet has been filed, as many as 46 witnesses have been cited therein, and as such, there is no immediate prospect of the trial being concluded in the near future. It is submitted that the petitioner has been implicated in the present case on the basis of mobile phone surveillance, which allegedly places him at the scene of occurrence at the relevant time. Nonetheless, he prays that the petitioner be released on bail on the ground of parity.

3. Mr. Biswas, the learned counsel appearing on behalf of the State, produces the Case Diary and, relying on the materials available therein, vehemently opposes the petitioner's prayer for bail. He contends that the plea of parity must be grounded in the principle of equality enshrined under Article 14 of the Constitution of India. However, he submits that the concept of negative equality is not recognized in Indian jurisprudence and is alien to the constitutional framework.

4. He submits that the present petitioner cannot claim to be on the same footing as the other accused persons. According to him, the petitioner is a professional killer who was specifically engaged to eliminate the victim. While narrating the background of the case, he submits that a romantic relationship had developed between one Arun Portel and the victim. However, upon discovering that Arun Portel was already married and had a family, the victim decided to end the relationship. This, it is submitted, enraged Arun Portel, who thereafter engaged the present petitioner and his associates to take the life of the victim.

5. He submits that if the present petitioner is released on bail, it may disturb the law and order situation in society, and there is a possibility that he may commit a similar offence in the future. He further submits that the weapon allegedly used in the commission of the offence was recovered from the possession of the petitioner, in consequence of information received from him.

6. In reply, Mr. Guha Roy submits that the petitioner has no previous criminal antecedents.

7. Heard the learned Advocates appearing for the respective parties and perused the materials on record, including the case diary and other materials on record.

8. In the present case, the charge sheet has been submitted, and other co-accused persons, including the principal accused who allegedly engaged the petitioner and his associates to commit the offence, have been granted bail. It is also pertinent to note that 46 witnesses have been cited in the charge sheet, which indicates that there is little likelihood of an early conclusion of the trial.

9. Taking note of these facts and upon further consideration, I find that at this stage it would be inappropriate to hold that the present petitioner stands on a different footing without a thorough evaluation of the evidence. Accordingly, I am inclined to grant bail to the present petitioner.

10. Accordingly, the petitioner, viz., Abhishek Darjee, may be released on bail on execution of a bond for Rs. 20,000/-, with two sureties of Rs. 10,000/- each, one of whom must be local, to the satisfaction of the learned Chief Judicial Magistrate, Jalpaiguri, subject to the conditions that the petitioner shall not leave the territorial jurisdiction of District Jalpaiguri and shall furnish the address where he will reside after release on bail to the learned Trial Court as well as to the Officer-in-charge, Bhaktinagar Police Station. Further, the petitioner shall appear before the trial court on every date of hearing until further orders and shall not intimidate witnesses or tamper with evidence in any manner whatsoever.

11. Although the charge sheet has been submitted, considering the nature and extent of the present petitioner's complicity in the alleged offence, I am inclined to impose an additional condition that the

petitioner shall report to the Officer-in-charge of Bhaktinagar Police Station once every month until further orders.

12. In the event the petitioner fails to appear before the trial court without any justifiable cause, the learned Trial Court shall be at liberty to cancel his bail in accordance with law, without further reference to this Court.

13. This application for bail is, thus, disposed of.

(Partha Sarathi Chatterjee, J.)