

IN THE HIGH COURT AT CALCUTTA
Circuit Bench at Jalpaiguri

20.08.2025.
Sl. No. 2
Ct.No. 4.
sdas
(Allowed)

C.R.M.(M) 215 of 2025

In Re:- An application for bail under Section 483 of the Bharatiya
Nagarik Suraksha Sanhita, 2023 in connection with Sitalkuchi
Police Station Case No. 161 of 2025 dated 09.04.2025 under Section
329(4)/103(1) of the BNS, 2023.

In the matter of : Eyachhin Miya @ Raju & Anr.
.... petitioners.

Mr. Sourav Ganguly
Mr. Deborshi Dhar
Ms. Rishita Chakraborty
Ms. Taniya Bhowmik
...for the petitioners.

Mr. Aditi Shankar Chakraborty, learned APP
Mr. Subhasish Misra
....for the State.

This application for bail has been preferred under Section
483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (in short
BNSS) in connection with Sitalkuchi Police Station Case No. 161 of
2025 dated 09.04.2025 under Section 329(4)/103(1) of the BNS,
2023.

Mr. Ganguly, learned Advocate appearing for the
petitioners, draws my attention to the concluding part of the charge-
sheet and contends that the charge-sheet was submitted with a prayer
for leave to file a supplementary charge-sheet. He argues that such a
prayer clearly indicates that the investigation has not been completed
and that the charge-sheet was filed only to deny the petitioners' right

to avail themselves of default bail. He submits that such action on the part of the prosecution is wholly unjustified. In support of his contention, he relies on the decision reported in *2023 SCC OnLine SC 502 (Ritu Chhabaria vs. Union of India & Ors.)*.

On merits, he submits that the prosecution has failed to produce any convincing evidence to connect the petitioners with the alleged offence and that they were apprehended merely on the basis of suspicion. He refers to the statement of the complainant recorded under Section 183 of the BNSS, which, according to him, only suggests that the complainant speculated that the petitioners might have been involved in the alleged offence. He argues that this is nothing but an afterthought, as the complainant could have mentioned the names of the petitioners in the FIR itself, had there been any strong ground.

He further refers to the order dated 27th July, 2025, passed by the learned Additional Sessions Judge, Mathabanga, Cooch Behar, in C.R. Case No. 125 of 2025, and points out that the Public Prosecutor-in-Charge opposed the petitioners' prayer for bail on the basis of certain statements contained in the Case Diary at pages 73 and 87, among others. He submits that the so-called confessional statement obtained in police custody is not admissible in evidence. He reiterates that the prosecution has miserably failed to bring any credible evidence or materials against the petitioners so as to justify their further detention in connection with this case.

Mr. Misra, learned Advocate appearing for the State, refutes the contentions advanced by Mr. Ganguly and relies on the decision reported in *(2024) 3 SCC 734 (Central Bureau of Investigation vs.*

Kapil Wadhawan & Anr.). He contends that Section 173(8) of the Code of Criminal Procedure empowers the investigating agency to conduct further investigation and to file a supplementary charge-sheet. He submits that there is no inflexible rule requiring that the charge-sheet must contain all documents which may be relied upon by the prosecution at the time of trial. He further submits that omission to place certain documents along with the charge-sheet does not render the charge-sheet invalid or vitiated.

He denies the contention raised by Mr. Ganguly that the prosecution has failed to bring any convincing evidence against the petitioners, and submits that all allegations are specifically directed against the petitioners. He further asserts that sufficient materials are available in the Case Diary indicating the involvement of the petitioners in the alleged offence.

Heard the learned Advocates for the respective parties and perused the materials on record.

The dead body of the victim was found in her house, and the post-mortem report and surrounding circumstances indicated that it was not a natural death. Thereafter, the investigating agency proceeded to investigate the cause of death. The Investigating Officer submitted Charge-sheet No. 313 of 2025 dated 13th July, 2025, on the plea that a prima facie case had been made out against the present petitioners. However, leave was also sought to file a supplementary charge-sheet.

Mere seeking of leave to file a supplementary charge-sheet does not automatically imply that the initial investigation was

incomplete. A supplementary charge-sheet may be filed to bring on record additional evidence, and the filing of such further evidence and/or documents by way of a supplementary charge-sheet does not invalidate or vitiate the initial investigation or the charge-sheet. As noted earlier, Section 173(8) of the Code of Criminal Procedure, corresponding to Section 193 of the BNSS, empowers the investigating agency to conduct further investigation and file a supplementary charge-sheet.

I have carefully considered the decision in *Ritu Chhabaria* (supra). In that case, the investigation had not been completed, and multiple supplementary charge-sheets were filed by the investigating agency solely to deprive the accused of the benefit of default bail.

In the present case, however, the petitioners were arrested on 28th April, 2025, and the charge-sheet was submitted on 3rd July, 2025. The petitioners never raised the plea before the learned Chief Judicial Magistrate that they had been deprived of the benefit of default bail on account of an incomplete charge-sheet. This bail application has been filed challenging the order dated 29th July, 2025, passed in C.R. (Misc.) Case No. 125 of 2025. For these two reasons, the contention advanced by Mr. Ganguly cannot be accepted.

It is settled that the investigating agency must procure sufficient evidence and disclose the same in the charge-sheet so as to satisfy the judicial conscience of the Court that there exists a scope to enquire into the offence and proceed to trial against the petitioners. In the present case, liberty was sought to produce the forensic examination report regarding the authenticity of the SDR, CDR, CF,

and Tower Location. Thus, the investigating agency prayed for leave to submit further evidence.

It is equally true that a confessional statement, which does not lead to any discovery or recovery of incriminating articles, is not admissible in evidence. Here, only two statements of witnesses recorded under Section 183 of the BNSS have been placed in the charge-sheet.

Therefore, considering the nature of the evidence collected by the investigating agency against the petitioners, along with the other materials on record, I am of the view that the petitioners' prayer for bail may be allowed, however, subject to certain conditions.

Accordingly, this bail application is, thus, allowed.

The petitioners may find bail upon furnishing a bond of Rs. 20,000/- each, with two sureties of Rs. 10,000/- each, one of whom must be local, to the satisfaction of the learned Additional Chief Judicial Magistrate, Mathabhanga. The petitioners 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

Further, the petitioners shall meet the Investigating Officer once every week until further orders and shall not leave the jurisdiction of Sitalkuchi Police Station without the permission of the learned Additional Chief Judicial Magistrate, Mathabhanga. They shall also deposit their passports, if any, before the Court of the learned Additional Chief Judicial Magistrate, Mathabhanga, and such

passports shall remain in custody until further orders of the learned Trial Court.

In the event of any violation of the conditions enumerated in the preceding paragraph, the learned trial court shall be at liberty to cancel the petitioners' bail in accordance with law, without any further reference to this Court.

This application for bail is, thus, disposed of.

(Partha Sarathi Chatterjee, J.)