

04.09.2025
Court No.04
Item No.08
Nandita

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

CRM (M) 224 of 2025

In Re: - An application for Bail under Section **483** of the Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with Siliguri Women Police Station Case No. 106 of 2024 dated 08.10.2024 under Sections **64(2)(m)/115(2)/351(2)** of BNS Act, 2023.

And

In the matter of: **Nitai Barman @ Netai Barman @ Nityananda Barman**

....PETITIONER

Mr. Bikash Singha,
Mr. Anirudha Tarafder,
...for the Petitioner

Mr. Jaydeep Kanta Bhowmik,
Mr. Sayantan Bhowmik,
Mr. Shubham Kumar,
Ms. Sayantani Das
...for the De-facto Complainant

Mr. Abhijit Sarkar,
Ms. Sukanaya Adhikari
....for the State

1. An application for Bail is filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with Siliguri Women Police Station Case No. 106 of 2024 dated 08.10.2024 under Sections 64(2)(m)/115(2)/351(2) of BNS Act, 2023.

2. It is said on behalf of the petitioner that he is completely innocent and has/had got no connection with the offence alleged. It is further contended by the learned Advocate that this accused petitioner is in custody since for a considerable period of time and in the meantime the investigation process is over and as such no purpose will be served by detaining this accused petitioner behind the bar for the sake custodial interrogation. It is said that this accused petitioner

may be enlarged on bail on the ground his long detention behind the bar.

3. Learned Advocate for the State raises objection by submitting that there are sufficient incriminating materials in the record which show about the prima facie involvement of this accused petitioner with the alleged offence. It is conceded by the learned Advocate that the investigation process has already been completed by submitting charge sheet before the trial Court. The attention of this Court is drawn to the statement of the victim recorded by the learned Magistrate and said that if at this stage the accused person is enlarged on bail, then there is every possibility of hampering of the progress of the trial.

4. Learned Advocate for the de-facto complainant raised objection against the prayer made by the accused petitioner for bail.

5. The case was started on the basis of a complaint lodged by the de-facto complainant stating that this accused petitioner allegedly committed rape upon her. Over the complaint a case was started by the concerned police station. It appears from the materials on record that this accused petitioner surrendered before the court on 11.06.2025 and since then he is in custody. In the meantime the investigation process was over and the charge-sheet was submitted by the prosecuting agency. Importantly, there is no specific allegation or cogent material brought before this Court to suggest that the accused, if enlarged on bail, would tamper with the evidence, influence the witnesses, or evade the process of law. In such

circumstances, the continued detention of the accused would amount to an unjustified curtailment of his fundamental right under Article 21 of the Constitution of India, which guarantees the right to personal liberty.

6. Therefore, once the investigating agency has secured the evidence and filed the charge-sheet, and when the possibility of the accused misusing liberty is not substantiated, the rationale for further deprivation of liberty ceases to exist. To keep the accused incarcerated beyond that stage would not serve the ends of justice, but rather inflict undue hardship and convert pre-trial detention into a punitive measure, which is impermissible in law.

7. Accordingly, **CRM (M) 224 of 2025** is **allowed**.

8. In view of above, the petitioner namely, **Nitai Barman @ Netai Barman @ Nityananda Barman** is enlarged on bail on furnishing a bond of Rs. 10,000/-(Ten Thousand) with two sureties of like amount each subject to the satisfaction of Additional Chief Judicial Magistrate, Siliguri, Darjeeling subject to the conditions that he 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.

9. In the event of any violation of the conditions enumerated in the preceding paragraph, the learned Additional Chief Judicial Magistrate, Siliguri or the learned Trial Court shall be at liberty to cancel the petitioner's bail in accordance with law, without any further reference to this Court.

10. Urgent Photostat certified copy of this order may be supplied to the parties expeditiously, if applied for.

(PRASENJIT BISWAS, J.)