

21.08.2025
SL. 18
Court No. 3
Sourav

**In the High Court at Calcutta
Circuit Bench at Jalpaiguri
Criminal Revisional Jurisdiction**

C.R.R. 421 of 2025

In re: An application Under Sections 438/442 read with
Section 528 of the Bharatiya Nagrik Suraksha Sanhita, 2023.

And

In the matter of: **Ainul Mia @ Akbar Ali & Anr.**

... petitioners.

Mr. Subhasish Misra

... for the petitioners.

Mr. Nilay Chakraborty, Ld. APP

Mr. Tapan Bhattacharjee

... for the State.

1. The subject matter of the instant revisional application is the order dated 27.06.2025 as passed by the learned Sessions Judge, Cooch Behar in bail petition no. 940 of 2025 whereby and whereunder the learned Sessions Judge, Cooch Behar declined to relax the condition of grant of anticipatory bail as prayed for by the present revisionists.
2. At the time of hearing, Mr. Misra, learned advocate appearing on behalf of the revisionists at the very outset draws attention of this Court to the order dated 22.03.2024 whereby and whereunder the learned Sessions Judge, Cooch Behar while allowing the application under Section 438 Cr.P.C. for anticipatory bail directed the accused petitioners who are the revisionists before this Court to pay cost of Rs. 10,000/- each to the SDLA, Dinhata or DLSA, Cooch Behar.
3. It further appears that the revisionists found hardship in

paying such cost and thus approached the learned Sessions Judge, Cooch Behar for relaxation of the condition by exempting them to pay such cost as imposed.

4. Mr. Misra, learned advocate for the revisionists submits before this Court that direction to pay cost of Rs. 10,000/- each by the accused petitioners are very uncommon and the same cannot be a condition for grant of anticipatory bail. It is thus submitted by Mr. Misra that the learned Sessions Judge, Cooch Behar while passing the impugned order dated 27.06.2025 has failed to visualize the predicament of the revisionists as well as the irregularity of the order dated 22.03.2024.
5. Mr. Misra thus submits that it is a fit case for allowing the instant application by setting aside the impugned order thereby relaxing the condition of bail as imposed by the learned Sessions Judge, Cooch Behar vide order dated 22.03.2024.
6. Such prayer is vehemently opposed by Mr. Chakraborty, learned Additional Public Prosecutor for the State.
7. On careful perusal of the entire materials as placed before this Court and after hearing the learned advocates for the contending parties, it appears to this Court that while granting a favourable order under Section 438 Cr.P.C., learned Sessions Judge, Cooch Behar by its order dated 22.03.2024 passed an unusual order imposing cost of Rs. 10,000/- each upon the present revisionist.

8. This Court is conscious that while passing a favourable order under Section 438 Cr.P.C., a court of session may put any condition as have been mentioned in Section 438(2) Cr.P.C., however, such condition ought not to include payment of cost by the accused at the time of disposal of the application under Section 438 Cr.P.C.
9. In view of the discussion made hereinabove, the instant revisional application succeeds.
10. Consequently, the impugned order dated 27.06.2025 as passed by the learned Sessions Judge, Cooch Behar in bail petition no. 940 of 2025 is hereby set aside.
11. Consequently, the application for modification of the bail as filed by the present revisionists before the learned Sessions Judge, Cooch Behar is hereby allowed.
12. Consequently, the present revisionists are exempted from paying any cost as directed by the learned Sessions Judge, Cooch Behar in bail petition no. 300 of 2024 vide its order dated 22.03.2024.
13. Consequently, the order dated 22.03.2024 as passed in bail petition no. 300 of 2024 by the learned Sessions Judge, Cooch Behar is thus modified.
14. With the aforementioned observations, the instant revisional application being **CRR 421 of 2025** is allowed and disposed of.
15. Liberty is given to the learned advocate on record for the revisionists to communicate the server copy of this order to

the learned Sessions Judge, Cooch Behar.

16. The learned Sessions Judge, Cooch Behar is directed to act on the basis of the server copy of this order.
17. Urgent photostat certified copy of this order, if applied for be given to the parties, upon compliance of necessary formalities.

(Partha Sarathi Sen, J.)