

25.11.2025
Item no. 02 (DL)
Court No.3
AN
(Partly Allowed)

**IN THE HIGH COURT AT CALCUTTA
Circuit Bench at Jalpaiguri
CRIMINAL MISCELLANEOUS JURISDICTION**

C.R.M. (A) 764 of 2025

In Re:- An application for anticipatory bail under Section 482 of BNSS, 2023 in connection with Kuchlibari P.S. Case No. 68 of 2025 dated 02.05.2025 under Sections 318(4), 316(2), 336(2), 336(3), 3(5) of the Bharatiya Nyaya Sanhita, 2023 corresponding to G.R. Case No. 256 of 2025 pending before the learned Additional Chief Judicial Magistrate, Mekhliganj.

In the matter of : **Dayal Roy & anr.**

... Petitioner.

Mr. Janardan Periwai
Mr. Rajesh Kr. Sharma
Ms. Riya Agarwal

...for the Petitioner.

Mr. Kallol Acharjee
Mr. Tapan Bhattacharjee

...for the State.

1. On the prayer of learned advocate liberty is granted to file fresh Vokatatnama on behalf of the petitioners.
2. Petitioners renew their prayer for anticipatory bail. The earlier application being CRM(A) 552 of 2025 was dismissed for default on 20th August, 2025.
3. Learned Advocate for the petitioners submit that the petitioner no. 2 is in advance stage of pregnancy with 32 weeks 4 days foetus in her womb. Although, she was served with a notice under Section 35(3) of the Bharatiya Nagarik Suraksha Sanhita, 2023, but, for the reason of

her emergent medical condition, she could not comply with such notice. By letter dated 10th November, 2025, she informed the Investigating Officer of her predicament. He files a copy of the letter dated 10th November, 2025 which is taken on record. He further submits that no such notice under Section 35(3) of the Bharatiya Nagarik Suraksha Sanhita, 2023 has been served upon petitioner no. 1. Referring to a notification of this Court dated 23rd August, 2023, he submits that the Police Authority is under obligation to serve notice under Section 35(3) of the Bharatiya Nagarik Suraksha Sanhita, 2023 (corresponding to Section 41(A) of the Code of Criminal Procedure). He seeks for grant of anticipatory bail in favour of the petitioners.

4. Opposing such prayer for anticipatory bail, learned advocate for the State submits that a forged legal heir certificate has been issued from the Office of the Pradhan who is petitioner no. 2 herein and petitioner no. 1, being the husband of the Pradhan has taken active part in issuance of the said forged legal heir certificate by dint of which the deed of gift in question was executed in favour of one Rita Devi Prasad. Petitioner no. 1 has similar type of criminal antecedents. He seeks for dismissal of the anticipatory bail application of the petitioners.
5. Perused the case diary and the materials on record.

6. It appears that the legal heir certificate was issued by petitioner no. 2 on 28th June, 2024. During the course of investigation, the petitioner no. 2 being the Pradhan, has filed a report stating that the said document was not issued vide Memo No. 186(A)BAG/FULGP to Nandalal. Be that as it may, upon going through the statement of the witnesses, there are no such specific allegations of connivance of the Pradhan, petitioner no. 2. The petitioner no. 2 is presently pregnant. Considering the extent of complicity of petitioner no. 2 and on humanitarian ground, I am inclined to extend the benefit of anticipatory bail in favour of petitioner no. 2.
7. It is found from the statement of the witnesses that the allegations of issuance of a forged legal heir certificate from the Office of the Pradhan is squarely against petitioner no. 1. It has been strenuously argued on behalf of petitioner no. 1 that since no notice under Section 35(3) of the Bharatiya Nagarik Suraksha Sanhita, 2023 has been issued, petitioner no. 1 is entitled to anticipatory bail. The issuance of a notice under Section 35(3) of the Bharatiya Nagarik Suraksha Sanhita, 2023 is a procedural steps to be taken by the investigating agency and not a substantive right that automatically can confer bail or pre-arrest bail in favour of petitioner no. 1. The memo of evidence also shows prior criminal antecedents of

petitioner no. 1. Considering the aforesaid, the prayer for anticipatory bail of petitioner no. 1 stands rejected.

8. Accordingly, in the event of arrest the petitioner no. 2, namely **Anima Roy** shall be released on bail upon furnishing a bond of Rs.10,000/- with two sureties of like amount each, to the satisfaction of the arresting officer and subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure, 1973 corresponding to 482(2) of the Bharatiya Nagarik Suraksha Sanhita, 2023. The petitioner no. 2 is directed to cooperate with the Investigating Officer subject to her medical condition as noted above.
9. This application for anticipatory bail is, thus, allowed in part.
10. **CRM (A) 764 of 2025** stands disposed of.
11. Urgent Photostat certified copy of this order, if applied for, be made available to the parties upon compliance of all requisite formalities.

(Bivas Pattanayak, J.)