

Sl. No.86.
15.06.2026
Suman
Ct. 237

CRR 310 of 2026

**Sunil Kumar Acharya @ Sunil Acharya and
Another
Vs.
The State of West Bengal and Anr.**

Mr. Manjit Singh, Sr. Adv.
Mr. Biswajit Mal
Mr. Arkaprabho Roy
..for the petitioners

Mr. Subir Ganguly
..for the State

The petitioners have challenged an order dated 2 September 2025 passed by the learned Sub-Divisional Magistrate, Tehatta, Nadia, under Section 100 of the Bharatiya Nagarik Suraksha Sanhita, 2023, in Case No. 638 of 2025. By the order impugned, the learned Magistrate directed the Officer-in-Charge, P.S. Belur, to ensure that the petitioners appear personally before the Court along with their daughter on 22 January 2026.

It appears that the said order was passed on an application seeking issuance of a search warrant under Section 100 of the Bharatiya Nagarik Suraksha Sanhita, 2023, filed by Opposite Party No. 2. In the said application, Opposite Party No. 2 has alleged that he is the husband of the petitioners' daughter. It is further alleged that on 30 May 2025, petitioner No. 1 visited the residence of Opposite Party No. 2 in his absence. On the

following day, in the early hours, petitioner No. 1 allegedly left the house of Opposite Party No. 2 along with his wife (the petitioners' daughter) without informing the parents of the opposite party.

Thereafter, the opposite party visited the petitioners' residence in an attempt to bring back his wife; however, it is alleged that the petitioners misbehaved with him and did not permit him to meet his wife.

Section 100 of the Bharatiya Nagarik Suraksha Sanhita, 2023 is reproduced below:

“Section 100. If any District Magistrate, Sub-divisional Magistrate or Magistrate of the first class has reason to believe that any person is confined under such circumstances that the confinement amounts to an offence, he may issue a search-warrant, and the person to whom such warrant is directed may search for the person so confined; and such search shall be made in accordance therewith, and the person, if found, shall be immediately taken before a Magistrate, who shall make such order as in the circumstances of the case seems proper.”

The said provision empowers a Magistrate to issue a search warrant in respect of persons alleged to be wrongfully confined, and upon such person being found, the same is required to be produced before the Magistrate, who shall pass appropriate orders in accordance with the facts and circumstances of the case.

In my view, as already noted, the nature of allegations made against the petitioners in the application under Section 100 of the Bharatiya Nagarik Suraksha Sanhita, 2023 does not disclose that the wife of Opposite Party No. 1 was wrongfully confined.

There is nothing on record to suggest any reasonable ground for believing that the daughter of the petitioners was confined in such a manner as to constitute an offence.

The existence of “reason to believe” is a sine qua non for the exercise of jurisdiction under Section 100 of the Bharatiya Nagarik Suraksha Sanhita, 2023. In the present case, however, the learned Magistrate directed the Officer-in-Charge of the concerned police station to ensure production of the petitioners’ daughter before the Court. Such a direction is de hors the scope of the said provision. Under Section 100, the Magistrate must first have reason to believe that a person is wrongfully confined; only thereafter may a search warrant be issued, pursuant to which the authorised person may search for and produce the person so confined.

Accordingly, the impugned direction is de hors the statutory framework of Section 100 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

In view of the aforesaid, the order dated 2 September 2025 is set aside and the revisional application is **allowed**.

Accordingly, **CRR No. 310 of 2026** stands disposed of in the above terms.

Urgent photostat certified copy of this order, if applied for, be supplied to the learned advocates for the parties on usual undertakings.

(Kausik Chanda, J.)