

AD 51
March 9, 2026
Ct. 28
SG

Allowed

CRM(A) 567 of 2026

An application for anticipatory bail under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with Kotwali P.S. Case No.142 of 2026 dated 07.02.2026 under Sections 336(4)/340(2)/352/356/61(2)/75/78/79 of the BNS, 2023 read along with Sections 66/66(C)/66(D)/67/67(A) of the Information Technology Act, 2000.

And

In the matter of: *Shefali Vaidya @ Shefali Vaidya Ganesh*
... petitioner

Mr. Billwadal Bhattacharya, Sr. Adv.
Mr. Indrajeet Dasgupta
Mr. Kabir Sankar Bose
Mr. Madhu Jana
Ms. Ipsita Choudhuri Jana
... for the petitioner

Mr. Subhomay Bhattacharya
Ms. Smita Saha
... for the State

Mr. Sabyasachi Banerjee, Sr. Adv.
Ms. Pragya Banerjee
... for the de facto complainant

Learned senior counsel representing the petitioner submits that at the behest of a sitting Member of Parliament, certain individuals have been needlessly harassed for sharing a post in the social media. The allegations make out no prima facie case. No electronic communication purporting to be a complaint can be treated as an FIR unless it is signed within three days of being sent to the police as per Section 173(1)(ii) of the BNSS. Reliance is also placed on a decision of this Court rendered on 24.10.2025 in CRR 1510 of 2025, where such a complaint sent by the petitioner

viz Arjun Singh, was not treated as an FIR as the same was not signed within three days. In the complaint, not even a screen shot was annexed. The maximum punishment here is for upto five years under the Information Technology Act.

Learned senior counsel appearing on behalf of the informant submits that although the allegations against some of the petitioners are of re-tweeting, it appears that some of the petitioners viz Surojit Dasgupta and Dharmendra Subhash Yadav, were the purported originators of the fake posts. There had been an attempt to malign certain political entities immediately before the ensuing elections in the State. There is a larger conspiracy that needs to be looked into. The question of maintainability of the FIR can fairly be tested before a revisional court.

Learned counsel for the State vehemently opposes the prayer for anticipatory bail.

Publication of private communications of others in the social media is an act in absolute bad taste. It is worse, if such publications are found to be fake and intended to be outrage the dignity of a lady.

However, there is also an issue that the purported FIR was not signed within three days of the e-mail.

The other important factor is the maximum punishment leviable for the alleged offences.

Considering the above, the other materials available in the case diary and the fact that the allegation against the present petitioner is that he had only shared the original post, I do not think that custodial interrogation of the petitioner is required in this case and I am inclined to grant anticipatory bail to the petitioner.

In the event of arrest, the petitioner shall be released on bail upon furnishing a bond of Rs.10,000/- (rupees ten thousand) with two sureties of like amount each, one of whom must be local, to the satisfaction of the Arresting Officer and also be subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure, 1973 corresponding to Section 482(2) of the BNSS, 2023 and on the further conditions that the petitioner shall cooperate with the investigation, shall not threaten or intimidate witnesses and shall not re-post the said message or commit similar offences.

The application for anticipatory bail is, thus, allowed.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of requisite formalities.

(Jay Sengupta, J.)