

12.03.2026
Ct. No. 237
Sl. No.53
(Susanta)
Allowed

CRM (M) - 654 of 2026

In Re: An Application for bail under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with Sandeshkhali Police Station Case No. 97/26 dated 25.02.2026 (corresponding to GR Case No. 881 of 2026) under Sections 192/196/197/299/302/3(5) of the BNS, 2023 subsequently adding Section 67 of the Information Technology Act, 2000 and presently pending before the Learned Additional Chief Judicial Magistrate, Basirhat.

And

In Re : **Swapan Mondal**

...petitioner

Mr. Rajdeep Majumdar,
Mr. Pritam Roy,
Ms. Arushi Rathore,
Ms. Triparna Roy,

.....for the petitioner

Mr. Rudradipta Nandy,
Mr. Akash Ganguly,

...for the State

The F.I.R. in the present case relates to a cognizable offence, and it does not appear that a notice under Section 35(3) of the Bharatiya Nyaya Sanhita, 2023, was issued to the petitioner prior to his arrest. The Hon'ble Supreme Court, in Satender Kumar Antil vs. C.B.I. & Anr., reported in 2026 SCC Online SC 162, has held that issuance of such a notice under Section 35(3) is mandatory.

The Case Diary has been produced before this Court, and while it contains a notice under Section 35(3) purportedly addressed to the petitioner, no documents have

been submitted to indicate that the notice was actually served on the petitioner prior to his arrest.

Admittedly, the F.I.R. was lodged on 25.02.2026 at approximately 9:00 p.m., and the petitioner was apprehended on the same date at around 11:30 p.m. It appears highly improbable before this Court that the notice was served on the petitioner within such a short span of time.

Learned counsel for the State, Mr. Nandy, submits that an attempt was made to serve the notice on the petitioner, relying on the forwarding letter, but he was allegedly not found. This Court observes that it is noteworthy that while the investigating agency was able to apprehend the petitioner within a very short period, it could not locate him to serve the mandatory notice under Section 35(3).

The petitioner has been in custody for approximately 15 days. In view of the foregoing, the prayer for bail is allowed.

Accordingly, the petitioner shall be released on bail upon furnishing a bond of Rs. 10,000/- (Rupees Ten Thousand Only), along with two sureties of the like amount each, one of whom must be a local, to the satisfaction of the Learned Additional Chief Judicial Magistrate, Basirhat.

It is further directed that the petitioner shall not enter the jurisdiction of Sandeshkhali Police Station for a period

of two weeks, except for the purpose of appearing before or meeting the Investigating Officer of the case. The petitioner shall meet the Investigating Officer as and when required.

Accordingly, CRM (M) 654 of 2026 stands allowed.

(Kausik Chanda, J.)