20.11.2026
Court No.35.
D/L. 159.
Kausik
(Allowed)

CRM (A) 3907 of 2026

In Re: An Application for Anticipatory Bail under Section 438 of the Code of Criminal Procedure, 1973/Under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with Parnasree Police Station Case No. 513 of 2025 dated 20.08.2025 under Sections 85/126(2)/115(2)/3(5) of the BNS, 2023.

And

In the matter of : Sannyasi Chandra Mistry & Ors.

……Petitioners.

Mr. Baidurya Ghosal
Mr. Sourav Mukherjee
Mr. Saikat Mukherjee

……for the Petitioners.

Mr. Soumya Nag
Mr. Rajdeep Sengupta
Ms. Sampriti Saha

….for the Defacto Complainant.

Mr. Gouranga Das, APP
Mr. Goutam Banerjee

….for the State.

Learned advocate appearing for the petitioner submits that petitioners are father-in-law, mother-in-law and the husband of the informant who apprehends their arrest pursuant to addition of Sections 109(1) and 316(2) of the BNS and the original bail being cancelled by the learned ACJM, Alipore. Petitioners were on bail in respect of the same case

when investigation commenced under Section 85/126(2)/115(2)/3(5) of the BNS.

Learned Magistrate, on an application filed by the investigating officer, cancelled the bail of the present petitioners, as on 27.06.2026, the aforesaid grievous sections being Section 109(1) and Section 316(2) were added.

State has produced the case diary.

I find that the case has already ended in charge sheet. Further investigation is in progress after the charge sheet was submitted on 27.09.2025.

Learned advocate appearing for the defacto complainant submits that the application is not maintainable and relies upon the judgment of the Hon'ble Supreme Court in ***Manish Jain vs. Haryana State Pollution Control Board (2020) 20 SCC 123***.

Records reflect that petitioner was granted bail on 26.08.2025. Such order of bail was never challenged or the grounds on which the bail was granted was not set aside by any higher forum or recalled by the same court. The only issue on which the learned ACJM, Alipore cancelled the bail, is addition of Sections 109(1) and 316(2).

Having considered that the medical reports relied upon by the petitioner were relating to incidents complained of prior to 20th August, 2025 and no factual circumstances have been

elaborately dealt with by the learned Magistrate, I am of the opinion that the custodial detention of the present petitioners for the addition of Sections 109(1) and 316(2) of BNS may not be called for.

So far as the judgment relied upon by the defacto complainant/informant is concerned, the same relates to a circumstance where a regular bail is cancelled and an accused applies for anticipatory bail. The present is a different case where the bail of the accused persons were cancelled because of addition of graver offences. At the stage of investigation, particularly, these cases where further investigation is concerned, a Court of law is never guided by the sections but much more on the factual matrix of the case. So far as the factual matrix of the case is concerned, there must be a justification of taking an accused into custody under the changed circumstances, although the right remains with the Court to deal with an application for bail or cancellation for bail.

Having taken into account an overall view on the materials appearing in the case diary, I am of the opinion that so far as the higher offences under Section 109(1) and Section 316(2) is concerned, the custodial detention of the petitioners may not be warranted.

As such prayer for anticipatory bail of the petitioners in CRM (A) 3907 of 2026 is allowed.

As such, I direct that in the event of arrest, the petitioners, namely (1) **Sannyasi Chandra Mistry**, (2) **Nilima Mistry**, (3) **Soumik Sarkar** be released on bail subject to the satisfaction of the investigating officer/arresting officer of the case and also subject to the conditions as laid down under Section 438(2) of the Cr.P.C. and/or under Section 482(2) of the Bharatiya Nagarik Suraksha Sanhita, 2023.

As initially a charge sheet was submitted and further investigation is in progress, petitioners are directed to present themselves before the jurisdictional Court within a period of 6 weeks from date. In the meantime, if required, the investigating officer would seek for availability of the petitioner nos. 1 and 3 for the purposes of investigation. Petitioner no. 2 will make herself available if required by the investigating officer.

Learned Magistrate, would while considering the bail application, decide if any other conditions are required to be imposed for the purposes of investigation or trial of the case.

With the aforesaid observations CRM (A) 3907 of 2026 is **allowed**.

Memo of Evidence submitted be kept with the record.

All parties shall act in terms of server copy of the order downloaded from the official website of this Court.

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

(Tirthankar Ghosh, J.)