

27.04.2026

Item no.12.

Court No.5.

Suman

(Allowed)

**In the High Court at Calcutta
Circuit Bench at Jalpaiguri
Criminal Miscellaneous Jurisdiction**

CRM (A)242of 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 Maynaguri Police Station Case No.94/2026 dated 01.03.2026 under Section 108/3(5) of Bharatiya Nagarik Suraksha Sanhita, 2023 pending before the learned Court of Chief Judicial Magistrate at Jalpaiguri.

And

**In the matter of :Motiyar Rahaman and Ors.
.....Petitioners**

Mr. Bablu Mitra
Ms. Rupa Shil
..for the petitioners

Mr. Abhijit Sarkar
Ms. Sukanya Adhikary
..for the State

Mr. Mitra, learned Advocate appearing for the petitioners, submits that this case has been initiated under Section 108/3(5) of the Bharatiya Nagarik Suraksha Sanhita for the alleged commission of the offence of abetment of suicide. However, he contends that the prosecution is not in a position to establish that the victim committed suicide. He further submits that the victim died following a “stroke,” which may have been due to a cardiac arrest or a cerebral attack.

He also submits that the case has been initiated out of a personal grudge. He further submits that the death occurred on 28th February, 2026, and the case was initiated on 1st March, 2026. He points out that no autopsy of the dead body was conducted. He further submits that two accused persons have been granted the benefit under Section 482 of the BNS by the learned Sessions Judge, Jalpaiguri, and that one person has been recently arrested and is in custody. He submits that, in the present case, it would not be apposite to compel the petitioners to languish in jail custody.

Mr. Luksom, learned Advocate appearing for the State, produces the case diary and opposes the prayer for bail. He submits that the body may be exhumed and post-mortem examination may be conducted. He further submits that there are direct allegations against the present accused persons in the statements of the witnesses recorded under Section 183 of the BNSS.

Heard the learned advocates appearing for the respective parties and perused the materials on record including the case diary.

In the present case, after the death, the State machinery did not consider it necessary that post-mortem examination of the dead body should be conducted, and the dead body was allowed to be cremated on the very next day. However, based on the complaint lodged by the de facto complainant on the next day, this case has been initiated under Section 108/3(5) of the BNSS against almost ten accused persons, inter alia, alleging that, as they exerted pressure upon the victim to transfer a certain piece of land in their favour, the victim died. However, it is also equally true that, as on date, the prosecution is not in a position to place any material to demonstrate that the victim had committed suicide, although Section 108 of the BNSS has been invoked.

Taking note of these facts and upon further consideration that two accused persons have been granted the benefit under Section 482 of the BNSS by the learned Sessions Judge, Jalpaiguri, I am of the view that the benefit under Section 482 of the BNSS can be extended in favour of the present petitioners, subject to certain conditions.

In view of the above, the application being CRM (A) 242 of 2026 is allowed.

It is ordered that in the event of arrest, each of the petitioners shall be released on bail upon furnishing a bond of Rs. 10,000/- (Rupees Ten Thousand only) each, with two sureties of Rs.5,000/- (Rupees Five Thousand only) each, one of whom must be local, to the satisfaction of learned Chief Judicial Magistrate at Jalpaiguri, subject to the condition that they shall meet the Investigating Officer once in a week till the submission of the charge sheet and subject to the conditions as laid down under Section 482(2) of the BNSS corresponding to 438 (2) of the Cr.P.C.

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.

(Partha Sarathi Chatterjee, J.)