

07.01.2026

Item No.35

Ct.No.3

dc.

Allowed

**IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI**

C.R.M. (A) 995 of 2025

In Re : An Application for anticipatory bail under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 filed in connection with Cooch Behar Women Police Station Case No. 162 of 2025 dated 03.08.2025 under Sections 64(1)/115(2)/351(2) of the Bharatiya Nyaya Sanhita, 2023 read with Section 3(1)(s) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989.

And

In Re : **Sourav Saha**

... Petitioner.

Mr. Sayan De,
Ms. Esha Acharya,
Mr. Rimik Chakraborty

... For the Petitioner.

Mr. Abhijit Sarkar,
Mr. Dhiman Sil

... For the State.

Mr. Sayan Banerjee,
Ms. Rishita Chakraborty

... For the *de facto* complainant.

Affidavit-of-service filed in Court today be kept with the record.

Learned advocate appearing for the petitioner draws the attention of the Court to the direction passed in CRR 452 of 2025 wherein a co-ordinate Bench of this Hon'ble Court while disposing of the revisional application was pleased to observe as follows :

"It is also made clear that rejection of instant application will not preclude the petitioner to make prayer under Section 482 of BNSS merely because petitioner has been booked inter alia with certain provision of Act of 1989"

and if he is so instructed that no case under the Act of 1989 has been disclosed in the facts and circumstances of the case, he will be at liberty to make such prayer for anticipatory bail before appropriate forum and in the event of filing such application, the concerned forum will dispose of such application in accordance with law without being influenced by any observation made herein.”

Learned advocate for the petitioner submits that petitioner had been to the police station, but was never interrogated by the investigating officer of the case and the petitioner was available in the proceeding as by way of revisional application, the proceeding was challenged. However, the said revisional application was disposed of on merits. It has also been submitted that the investigation of the case has already been concluded and so far as the accusations are concerned, the said accusations are consensual acts of two major persons.

Learned advocate appearing for the State, on the other hand, opposes the prayer for anticipatory bail, produces the case diary and draws the attention of the Court to the statement of the victim as also the medico-legal injury reports. Attention was also drawn to the statement of two other witnesses, one of whom happens to be the Manager of the hotel and the other is the husband of the victim.

Mr. Banerjee, learned advocate appearing for the *de facto* complainant opposes the prayer for anticipatory bail and submits that a writ petition has been preferred in respect of the perfunctory investigation being carried out and

prayer has been advanced for proper investigation and for protection of the victim. Learned advocate has also referred to the communication made by the *de facto* complainant to the Superintendent of Police, Cooch Behar as also the communication received by the *de facto* complainant from the West Bengal Commission for Women. It has been submitted that any liberty granted to the petitioner would result in jeopardizing the life of the *de facto* complainant.

I have taken into account the materials appearing in the case diary particularly the nature of incidents which may have added certain severity to the offence, but I find that no evidence to that effect has been collected in support of the same by the investigating agency; neither the mobile phone data was retrieved nor any witness was examined near the petrol pump which was the pivotal issue for consideration regarding the assessment of the genuinity of the accusations.

Be that as it may, since the charge-sheet has already been submitted and the revisional court has granted liberty to approach the petitioner under the provisions of anticipatory bail, I am of the view that custodial detention of the present petitioner, at this stage, is unwarranted. As such, the prayer for anticipatory bail of the petitioner is **allowed.**

In the event of arrest, the petitioner shall be released on bail upon furnishing a bond of Rs.20,000/-, with two sureties of Rs.10,000/- 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 Bharatiya Nagarik Suraksha Sanhita, 2023.

The learned Special Court would take into account the circumstances of the case and would be at liberty to impose fresh conditions in case the petitioner appears before the learned Special Court.

This order of anticipatory bail will remain in force for a period of six weeks.

The application for anticipatory bail, being CRM(A) 995 of 2025, is, thus, disposed of.

All concerned parties shall act on the server copy of this order duly downloaded from the official *website* of this Court.

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

(Tirthankar Ghosh, J.)