JPD 3.
November 26, 2026.
MNS

Calcutta High Court
In The Circuit Bench at Jalpaiguri
Appellate Jurisdiction

CRM (A) 951 of 2026

In Re: - An application for anticipatory bail under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 corresponding to Section 438 of the Code of Criminal Procedure in connection with G.R. Case No. 3952 of 2026 arising out of Bhaktinagar Police Station Case No. 742 of 2026 dated 22.08.2026 under Sections 127(2)/64(1)/123/70(1)/351(2)/61 of BNS.

And

In the matter of: Md Intesar Ahmed

…. petitioner

Mr. Deep Chaim Kabir, Sr. Adv.,
Mr. Debasish Mukhopadhyay,
Mr. Tapash Ghosh,
Ms. Srishti Sarker,
Ms. Payel Chanda,
Ms. Bipasha Mrug, Advs.

… for the petitioner

Ms. Panchali Deb Sikder (Nag), Sr. Govt. Adv.,
Mr. Nigam Mittal, Adv.

… for the State

1. The affidavit-of-service filed today be kept on record, from which it transpires that the victim/de facto complainant has been served.

2. Learned senior counsel appearing for the petitioner raises a question as to whether such prior service, in matters beyond the pale of Section 483(2) of the BNSS, is required at all.

3. Upon a comparative perusal of the said provision and Section 439(1A) of the Code of Criminal Procedure, it transpires that, as opposed to the predecessor statute, the BNSS does not stipulate

any such provision except in cases covered by Section 65 and Section 70(2) of the Bharatiya Nyaya Sanhita (BNS).

4. Be that as it may, since service has already been effected, this Court is not entering into such consideration at the present moment.

5. Learned senior counsel contends that out of the fourteen persons who were allegedly involved in joint sessions of entertainment, including the victim as well as the petitioner, only eight have been charge-sheeted as accused, whereas six others have not been charge-sheeted against in view of them having been arrayed as witnesses.

6. It is further pointed out that whereas the alleged incident took place on several occasions in the year 2025, the complaint was lodged only on August 25, 2026, barely four days after the victim was marked by her college as not having the minimum attendance required for her to take the next level of examinations. It is submitted that such delay in filing the complaint remains completely unexplained.

7. Proceeding further, learned senior counsel argues that even from the complaint it would be evident that the victim had several joint sessions of entertainment with many of her friends. It is submitted that all such occasions were consensual in nature as per the complainant herself.

8. Learned senior counsel takes the Court extensively through the contents of the complaint to substantiate the above arguments.

9. That apart, it is contended that the petitioner has been chosen to take the brunt of the allegations apparently on communal grounds.

Pointing out to the relevant section of the complaint, it is submitted that as per the complainant, the delay in lodging the complaint occurred, *inter alia*, due to threats being allegedly issued by the petitioner on the ground of religion.

10. Learned senior counsel submits that the petitioner is a medical student and does not have any criminal antecedents and as such, unless granted the benefit of anticipatory bail, the petitioner may carry an unnecessary stigma and his educational career may be jeopardized.

11. Learned counsel appearing for the State seriously opposes the prayer for anticipatory bail and points out to the relevant portions of the complaint, wherefrom it transpires that the sexual offence alleged was committed against the complainant by the petitioner himself.

12. It is submitted that since video recordings of such act were subsequently circulated and the matter was brought to the notice of the complainant, she allegedly went to the authorities of the educational institution where she studies, who paid no heed to such grievance. Subsequently, the present complaint was lodged.

13. Learned counsel submits that in view of the gravity of the crime alleged, custodial interrogation of the petitioner is absolutely necessary and anticipatory bail ought not to be granted.

14. After going through the complaint, the Court finds that there are explicit averments therein to indicate that the complainant engaged in similar activities jointly with friends, including the petitioner and

several others, both male and female, on several occasions, starting from the earlier part of the year 2025 through 2026.

15. From the complaint, it further transpires that when the alleged offence was committed, video recordings were taken, about which the complainant allegedly became aware only later since she was in a drunken stupor at the relevant point of time. However, the allegation in respect of the petitioner is primarily of rape, and not circulation of videographs. It remains unexplained as to what prevented the complainant from seeking redress in that regard for over a year.

16. Thus, from the complaint itself, it transpires that the reason given for the delay in lodging the complaint more than one year after the alleged offence does not inspire confidence.

17. Moreover, as per the complaint, even after the commission of the offence, the complainant engaged in similar activities with the petitioner and took a train, came back to the educational institution where both of them study, and thereafter merrily kept quiet for a considerable period of time.

18. Subsequently, when videographs were circulated and the complainant became aware of the same, she allegedly approached the concerned authorities of the educational institution where she studies and those authorities having not paid any heed, she lodged the complaint which is the genesis of the present FIR.

19. The tenor of the complaint itself shows that there is every possibility of consensuality and complicity in the incident referred to therein.

20. Moreover, it is not explained in the complaint as to why the complainant waited till only a few days after she was disqualified from taking examinations in the college for lack of attendance, apparently as a pretext of such poor attendance.

21. Apart from the aforesaid circumstances, it is found that out of the several named persons who were charge-sheeted for the joint activities referred to above, only a few have been named as charge-sheeted accused persons, whereas those who have been arrayed as witnesses have been conveniently excluded from the list of the charge-sheeted accused persons.

22. The above circumstances raise sufficient doubt as to the perpetration of the offence alleged against the petitioner.

23. Moreover, the Court cannot overlook the fact that the petitioner is a medical student and in the event incarcerated at this preliminary juncture, there is every possibility that the petitioner will carry a stigma throughout his life and his educational career may be adversely affected much prior to a final adjudication on trial as to his involvement in the alleged crime.

24. Thus, this Court is of the opinion that the petitioner is entitled to anticipatory bail, subject, however, to the conditions indicated below.

25. CRM(A) 951 of 2026 is accordingly allowed on contest, thereby granting anticipatory bail to the petitioner.

26. In the event of arrest, the petitioner shall be released on bail upon furnishing a bond of Rs. 10,000/-, with two sureties of like amount

each, one of whom must be local, to the satisfaction of the learned Chief Judicial Magistrate, Jalpaiguri.

27. The petitioner shall not in any manner try to contact the complainant and/or her family members and/or any prospective witnesses and/or try to induce them and/or intimidate them in any manner and/or tamper with evidence.

28. The petitioner shall not leave the territorial jurisdiction of the states of Bihar, where he studies, and West Bengal, the alleged place of occurrence.

29. As a further condition, the petitioner shall cooperate fully with the investigation and make himself available as and when required to do so by the Investigating Officer.

30. In any event, the petitioner shall meet the Investigating Officer once every fortnight.

(Sabyasachi Bhattacharyya, J.)