

10.09.2026

Item No. 03

Ct. No. 39

AN

(ALLOWED)

C.R.M.(A) 2105 of 2026

In Re:- An application for anticipatory bail under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 filed in connection with Rejinagar Police Station Case No. 219 of 2026 dated 27.06.2026 under Sections 152 / 192 / 196 / 197 / 224 / 299 / 351(2) / 352 / 353 of the Bharatiya Nyaya Sanhita, 2023 corresponding to G.R. Case No. 3106 of 2026 now pending before the learned Chief Judicial Magistrate, Berhampur, Murshidabad.

In the matter of : **Humayun Kabir**

... Petitioner.

Mr. Soumyajit Das Mahapatra

Mr. Syed Ali Afzal

Ms. Rebika Sultana

...for the Petitioner.

Mr. Kallol Mondal, Id. P.P.

Mr. Pawan Kr. Gupta

Ms. Anamitra Banerjee

...for the State.

1. Learned advocate appearing for the petitioner submits that the present petitioner is a political leader having post of Member of Legislative Assembly and a public figure as well.
2. It is further submitted that he is innocent and has been falsely implicated in this case due to political rivalry. He further submits that the present petitioner has been implicated under several sections of the BNS, 2023 including Section 152, although no ingredients of section 152 are fulfilled. Some of the said sections are bailable, and some are not. With the exception of Section 152, the maximum punishment prescribed under the other

Sections extends up to five years. He prays for anticipatory bail of the petitioner on any terms and conditions.

3. Learned advocate appearing for the petitioner further submits that on two occasions, notices under Section 35(3) of the BNSS, 2023 were issued to the present petitioner. He complied with the notices; on the first occasion, the investigating officer interrogated him for about four hours; on the second occasion, he was interrogated for about five long hours. It is submitted that the petitioner is always ready to cooperate with the investigation; the question of arrest does not arise when the maximum punishment prescribed under most of the sections is 5 years.
4. It is further contended that similar type of cases were registered against him earlier, and in all those cases, he was granted anticipatory bail.
5. He further relied upon the order passed by the Co-ordinate Bench of this Court on 19th August, 2026, being CRM(A) 2124 of 2026 where his prayer for anticipatory bail was allowed.
6. He further relies upon the judgment passed in the case of **Satender Kumar Antil vs. Central Bureau of Investigation & Anr.** reported in **2026 SCC OnLine SC 162** on the point that when the offence is punishable with imprisonment of less than seven years, and the

accused cooperates with the investigation, arrest ought to be a rare case.

7. On the other hand, learned advocate representing the State produces the memo of evidence, the case diary and opposes the prayer for anticipatory bail and submits that Section 152 of BNS is applicable when the petitioner used threatening language while addressing a public gathering, targeting particularly a political party and public servants. He should be very careful and cautious in delivering speeches in public gatherings being an M.L.A. Therefore, if the prayer for anticipatory bail is allowed, the public at large as well as the nation will be endangered. The offence is serious in nature and sessions triable.
8. Having heard the learned advocates for the respective parties and upon perusing the materials on record, the case diary and the memo of evidence as well as the judgment referred to by the petitioner, this Court is of the opinion that there is no need for custodial interrogation of the petitioner due to the following reasons:-
 - a. Firstly, this Court does not find the ingredients even *prima facie* in connection with Section 152 of the BNS, 2023.
 - b. Secondly, the accused person is a public figure in West Bengal, and he has his own hearth and home.
 - c. Thirdly, he has already complied with the notices issued under Section 35(3) of the BNSS, 2023 on two

occasions and he was interrogated extensively for more than 8 hours.

d. Fourthly, there is no chance of tampering with the evidence since the electronic clipping has already been seized by the investigating Officer.

e. Lastly, no complaint has yet been lodged against the petitioner by any person after delivery of such speech; no untoward incident took place on the basis of such speech.

9. Considering the above, the prayer for anticipatory bail of the petitioner is, thus, considered and **allowed**.

10. Accordingly, in the event of arrest, the petitioner shall be released on bail to the satisfaction of the arresting officer on the terms and conditions as he deems fit and proper and also subject to the conditions as laid down under Section 438(2) of the Criminal Procedure Code corresponding to Section 482(2) of the Bharatiya Nagarik Suraksha Sanhita, 2023.

11. In the event the petitioner fails to comply with the conditions as imposed by this Court, the prosecution shall be at liberty to pray for cancellation of the anticipatory bail granted by this Court in accordance with law.

12. **C.R.M.(A) 2105 of 2026** stands **disposed of**.

13. All concerned parties shall act on the server copy of this order duly downloaded from the official *website* of this Court.
14. The concerned Department is directed to supply urgent certified Photostat copy of this order to the parties, if applied for, upon compliance of all necessary formalities.

(Ajay Kumar Gupta, J.)