

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Jay Sengupta

C.R.M. (A) 2976 of 2025

Asit Barik

Vs.

**The Superintendent of Police,
Central Bureau of Investigation**

For the petitioner : Mr. Sujan Chatterjee
Mr. Rohan Bavishi
.....Advocates

For the de-facto complainant : Mr. Moyukh Mukherjee
Ms. Sagnika Banerjee
.....Advocates

For the CBI : Mr. Amajit De
.....Advocate

Heard lastly on : 24.02.2026

Judgment on : 24.02.2026

Jay Sengupta, J:

1. This is an application for anticipatory bail, in connection with Sessions Case No. 06 of 2025 under Sections 302/341/323/506/427/354/201/34 of the Penal Code arising out of CBI Case No. RC Case No. – 056-2021-S-0008 dated 25.08.2021 which, in turn, arises from Narkeldanga Police Station Case No. 124 dated 02.05.2021.

2. Learned counsel appearing on behalf of the petitioner submits as follows. The present petitioner is not the principal accused. He was neither named in the FIR nor in the first charge sheet submitted by the CBI. The petitioner is a neighbor of the alleged victim/deceased and the victim/brother of the deceased. There was a criminal case started earlier against the present petitioner with the allegation that he had assaulted the said victim. In spite of all these, it appears that the present petitioner was not specifically named by the victim as one of the assailants in this case at the time of making his first complaint. The petitioner's name cropped up only in a subsequent statement made by the present victim in the year 2022. Now, the present petitioner has been shown as an accused in a charge sheet filed by the CBI in this case. Summons was issued by the Special Court. The petitioner apprehends that he may be taken into custody in connection with the instant case once he appears before the learned Court. Earlier, two other co-accused were similarly treated and taken into custody. They were thereafter granted bail by this Court. Some other similarly circumstanced co-accused who was named by the petitioner at a later point in time were also granted anticipatory bail by this Court.

3. Learned counsel appearing on behalf of the de facto complainant opposes the prayer of anticipatory bail. He submits that the victim/elder brother of the deceased had lodged an FIR on 03.05.2021, which would contain names of certain accused, but not the petitioner because the de facto complainant was witness to the first part of the attack and not as regards the last part where some accused entered into the residence of the victim/deceased and thereafter the victim was murdered. On 25.08.2021, the CBI took up the investigation. In the mean time, the mobile phone of the deceased victim was found in the rubbles. It was also found that the victim had captured the image of the present petitioner when he was entering the residence to attack. Before this point, the petitioner did not know about such facts and therefore, had no occasion of naming of the petitioner in his complaint. The charge sheet was filed on 30.09.2021, which did not contain such details. This prompted the petitioner to write a letter to the CBI to have his statement recorded before a learned Magistrate. On 08.02.2021, the de facto complainant gave a statement before the learned Magistrate taking the name of the petitioner as one of the assailants.

4. Learned counsel appearing on behalf of the CBI strongly opposes the prayer for anticipatory bail. He submits that the case involves a most gruesome murder that took place in the post poll violence that ensued after the election in 2021 and was orchestrated by the members of the ruling political dispensation. The mother of the victim was made to sign on blank paper and a softer and different version was taken down as the FIR. The actual facts only came out in installments at later dates.

5. During the proceeding, the counsel for the CBI accompanied by an officer was asked to play the relevant video footages which had been produced by them before the Court in a pendrive. The same was perused in the chamber before the learned counsel for the CBI and the officer. It could be seen from the footages that the elder brother of the victim/deceased along with others were watching a CCTV camera and could locate a person on the main road and beyond the lane from which he was viewing the thing going along the road from right to the left. It was mentioned on behalf of the CBI that although the figure could be hardly seen properly, the brother of the victim/deceased could identify him as the petitioner.

6. In any event, the individual was seen from a distance going along the road. It will be for the Courts to decide finally, after verifying the authenticity of the footage, about whether such facts incriminate the petitioner as it might be contended that it was natural for a local resident to go along the road.

7. I heard the learned counsels appearing on behalf of the petitioners, the CBI and the de facto complainant and perused the case diary and the video footage made available by the prosecution in a pendrive.

8. Earlier, by an order dated 21.08.2025 passed in CRM (A) 2487 of 2025 and CRM (A) 2523 of 2025, this Court had granted anticipatory bail to some other co-accused and, inter alia, held as under:

“

7. In *Shamim Ahmed (supra)* a Special Bench of this Court held as under –

“

So after a careful scrutiny of the different case laws and on perusal of the structure of the Code of Criminal Procedure, we hold and conclude that there is no bar in filing an application under section 438 after the filing of the chargesheet or after the issuance of a process under section 204 of the Code or after the issue of warrant of arrest in a complaint case. We also come to the conclusion that such an application is quite maintainable at post-cognizance stage of a case instituted on police report or complaint after the court issues process like warrant of arrest for production of a person of having committed a non-bailable offence. The question is accordingly answered in the affirmative.

.....”

8. Among other things, the Court held that an application for anticipatory bail would be maintainable if a process is issued. It is not for this Court to look for whether the ratio laid down was beyond the scope of reference in such case. Even, the attempt made on behalf of the *de facto* complainant to construe that the process would essentially mean the issuance of warrant in a complaint case and not summons is not found sustainable. One has to go by the plain words used and the same would imply that an application for anticipatory bail would indeed be maintainable in a case where a process is issued like the present one where a summons was issued after filing of charge sheet in a police case involving non-bailable offences. This Bench is bound by the ratio laid down by a Special Bench of this Court.

9. That apart, a contrary proposition would lead to anomalous outcomes. It would imply that if a more strict process like a warrant of arrest is issued, an application for anticipatory bail would lie. But, if a less stringent process like a summons is issued, an application for anticipatory bail would not lie and an accused facing such lighter process would be

deprived of such an opportunity and would be directly subjected to the exercise of discretion by the Trial Court as regards grant of bail.

10. Then, there is the other concept of apprehension of arrest not being confined to an arrest only by the police. As the word “arrest” has not been defined in the Sanhita or the Code of 1973, an interpretation may fairly be contemplated so as to include within its ambit, any kind of detention or custody, depriving the liberty of a citizen, especially when tested on the anvil of Article 21 of the Constitution of India. According to Black’s Law Dictionary, 6th Edition, “arrest” means, among other things, ‘to deprive a person of his liberty by legal authority’; ‘taking, under real or assumed authority, custody of another for the purpose of holding or detaining him to answer a criminal charge or civil demand.’

11. In *Mahdoom Bava vs. CBI*, reported at 2023 SCC Online SC 299, appeals against rejection of anticipatory bail were opposed by the CBI, inter alia, with a categorical stand that the Court had merely issued summons and not warrant for appearance of the accused. There, the Hon’ble Apex Court held that -

“.....
10. More importantly, the appellants apprehend arrest, not at the behest of the CBI but at the behest of the Trial Court. This is for the reason that in some parts of the country, there seems to be a practice followed by Courts to remand the accused to custody, the moment they appear in response to the summoning order. The correctness of such a practice has to be tested in an appropriate case. Suffice for the present to note that it is not the CBI which is seeking their custody, but the appellants apprehend that they may be remanded to custody by the Trial Court and this is why they seek protection. We must keep this in mind while deciding the fate of these appeals.

.....”

“.....

12. In view of the aforesaid, we are of the considered view that the

appellants are entitled to be released on bail, in the event of the Court choosing to remand them to custody, when they appear in response to the summoning order. Therefore, the appeals are allowed and the appellants are directed to be released on bail, in the event of their arrest, subject to such terms and conditions as may be imposed by the Special Court, including the condition for the surrender of the passport, if any.

.....”

12. *In view of the above discussions, this Court finds that the present application for anticipatory bail is quite maintainable.*

13. *The roles allegedly ascribed to each of the present petitioners also need to be briefly touched upon to find out whether they are entitled to get anticipatory bail, on merits. Such discussions would quite obviously be for the limited purpose of deciding the instant applications.*

.....”

9. The case at hand involves a gruesome murder that took place during the post poll violence of 2021. Therefore, it is an absolute imperative that the real truth comes out and the persons responsible for such horrendous murder are punished. However, the question of grant of anticipatory bail would depend on established principles including on what is the nature and quality of evidence prima facie available against a particular accused at that stage.

10. Considering the above, the other materials available in the case diary, the video footage strongly relied upon, the alleged role ascribed to the present petitioner and the fact that he, despite being a close neighbour, was named

as an accused at a much later date, I am inclined to grant anticipatory bail to the present petitioner.

11. In the event of arrest, the petitioner shall be released on bail upon furnishing a bond of Rs. 50,000/- each with two sureties of like amount each, one of whom must be local, to the satisfaction of the Arresting Officer and also be subject to further conditions that the petitioner shall not threaten or intimidate the witnesses. The petitioner shall stay outside the jurisdiction of Narkeldanga Police Station for a period of 4 months, except for attending the jurisdictional Court or meeting to the Investigating Officer.

12. Urgent Photostat certified copy of this order, if applied for, be given to the parties, upon completion of requisite formalities.

(Jay Sengupta, J.)