

June 05, 2025  
(Vacation Bench)  
Saswata/ P.P./S.D (05)

**W.P.A. 12361 of 2025**  
**Shamishta Panoli @ Sharmishta Panoli Raj**  
**Vs.**  
**State of West Bengal & Ors.**

Mr. D.P. Singh, Sr. Adv.,  
Mr. Nilanjan Bhattacharjee, Sr. Adv.,  
Mr. Rajdeep Majumder, Sr. Adv.,  
Mr. Kabir Shankar Bose,  
Mr. Brajesh Jha,  
Mr. Vikash Singh,  
Mr. Satadru Lahiri,  
Mr. Mayukh Mukherjee,  
Mr. Mannu Mishra,  
Ms. Arushi Rathode,  
Ms. Kanchan Jaju,  
Mr. Sudarshan Kumar Agarwal,  
Ms. Vanshika Lamba,  
Mr. Rahul Verma,  
Ms. Ditsa Dhar,  
Mr. Ditsa Dhar,  
Ms. Tejasuri Jatt,  
Mr. Soumya Sarkar,  
Ms. Sagnika Banerjee  
Mr. Debanea Das,  
Ms. Swheta Maity

.....for the Petitioner

Mr. Kishore Dutta, Ld. A.G.,  
Mr. Swapan Banerjee,  
Ms. Sumitra Slaeni,  
Mr. Diptendra Narayan Banerjee,  
Mr. Arka Kumar Nag,  
Mr. Soumen Chatterjee,  
...for the State

1. Challenging, inter alia, the registration of First Information Report and the consequential investigation, the instant writ petition has been filed.
2. The petitioner at this stage prays for an interim bail. On 3<sup>rd</sup> June, 2025, citing extreme urgency, this matter was moved and a Coordinate Bench of this Court was inter alia pleased to pass the following order.

“Heard learned advocates appearing for the respective parties and perused the materials on record.

Admittedly, in a country like ours, people of different faiths, communities, and linguistic backgrounds coexist. Therefore, one should exercise caution when making any comments in the media or before the public. The Hon’ble Supreme Court, in a series of judgments, has condemned incidents of hate speech, dog-whistling, and making disparaging remarks that may hurt any section of the people of our country.

Before the Court, no materials have been produced to show the exact comments made by the student, nor have any documents been submitted to indicate whether a notice under Section 35(b) of the BNSS was issued in favour of the petitioner. However, as noted earlier, the State has produced a document titled “Intimation of Grounds of Arrest” and contends that the grounds of arrest were disclosed to the petitioner in compliance with the provisions of Article 22 of the Constitution.

Therefore, in view of the above, I am of the opinion that the State should be afforded an opportunity to produce the relevant documents and address the issues raised by the petitioner.

Admittedly, the petitioner has been arrested in connection with Garden Reach P.S. Case No. 136 dated May 15, 2025. I have been informed that this is the earliest case based on the time of its institution.

Such controversial remarks often lead to the registration of multiple FIRs across different parts of the State. Recently, the Hon’ble Supreme Court, while adjudicating one such case, granted interim protection and stayed the lodging of any further FIRs based on the same set of allegations. (See, the decision rendered in case of *Ranveer Gautam Allahabadia v. Union of India*, 2025 SCC OnLine SC 698).

Useful reference may also be made to the decisions of the Hon’ble Supreme Court in *T.T. Antony v. State of Kerala & Ors.* reported in (2001) 6 SCC 181 and *Babuvai v. State of Gujarat & Ors.* reported in (2010) 12 SCC 254.

In the present case, it is submitted that four FIRs have been lodged against the petitioner based on the same set of allegations. Therefore, the test of sameness is applicable. Taking note of these facts and applying the principles laid down in *T.T. Antony* (supra), I am inclined to direct that Garden Reach Police Station Case No. 136 of 2025 shall be treated as the principal case, and all other cases registered on the identical set

of allegations and/or cause of action shall remain stayed until the disposal of this writ petition.

The State is also directed to ensure that no further case and/or FIR is registered arising out of the same cause of action and/or similar set of allegations against the petitioner.

As noted earlier, the Court is inclined to examine the materials collected by the State so far against the petitioner in connection with Garden Reach P.S. Case No. 136 of 2025. However, considering that personal liberty is involved, the matter shall be listed before the next Vacation Bench on June 5, 2025, at the top of the list.

At this stage, Mr. Singh submitted that the petitioner is being denied permission to wear the clothes supplied by her parents and is not being provided with essential materials.

In response, Mr. Bandyopadhyay, appearing for the State, submits that all facilities available to other inmates in custody shall also be provided to the petitioner in accordance with law.

In view of such submission advanced on behalf of State, no order needs to be passed at this stage.

Parties to act on the server copy of this order duly downloaded from the official website of this Court.”

3. Pursuant to the direction passed by the Coordinate Bench on 3<sup>rd</sup> June, 2025, this matter has come up for consideration today.

4. Learned Advocate General representing the State in compliance with the direction passed by the Coordinate Bench of this Court on 3<sup>rd</sup> June, 2025 has produced the case diary.

5. The learned Advocate General has drawn attention of this Court to the complaint dated 14<sup>th</sup> May, 2025, the FIR prepared by the Officer-in-Charge, Garden Reach Police Station, Kolkata on 15<sup>th</sup> May, 2025. The learned Advocate General would submit by drawing attention of this Court to the notices issued on 20<sup>th</sup>

May, 2025 regarding the prayer for police assistance for conducting raid/search at the petitioner residence as also to two other notices both addressed to the petitioner on the selfsame date issued under Section 35(3) of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter referred to as BNSS, 2023) that the petitioner was kept informed with the pending investigation and was called upon to express her convenient date and time for examination. He has also placed before this Court the notice issued under Section 94 of the BNSS, 2023. Since the petitioner did not cooperate further notices were issued on 21<sup>st</sup> May, 2025 for police assistance for conducting raid/search at the petitioner's residence. Similar notices under Section 35(3) of the BNSS, 2023 also appears to have been issued on the following date, i.e. on 21<sup>st</sup> May, 2025. According to the State, since the petitioner did not cooperate and did not present herself before the Investigating Officer, an application was filed on the following date, i.e. on 22<sup>nd</sup> May, 2025 before the Court of the learned Chief Judicial Magistrate, Alipore, 24-Parganas (South) praying for custodial interrogation, inter alia, on the ground that several complaints have been submitted in respect of the aforesaid by the members of the public and it was also necessary to prevent the accused from committing future offence.

6. From the Case Diary, I notice that a Warrant of Arrest had been issued by the Chief Judicial Magistrate, Alipore Police Court on 22<sup>nd</sup> May, 2025

itself. The said Warrant of Arrest was executed by the concerned police authorities by arresting the petitioner on 30<sup>th</sup> May, 2025 at about 08:20 hrs from Room No. 209, Floor-II, Hotel – Urban Oasis near Millennium Metro Block, E-III, South City – I, Sector – 41, Gurugram, Haryana – 122003. Along with the Memo of Arrest, a seizure list was also prepared. Both the Memo of Arrest and the seizure list have duly been countersigned by the petitioner as would corroborate from the carbon copy of such documents in the case diary. The petitioner was also served with the “intimation of grounds of arrest”, a copy of such document is available on the file along with the counter signature of the petitioner. The petitioner was thereafter produced before the Court of the learned Judicial Magistrate, Gurugram, Haryana in connection with Garden Reach Police Case No. 136 dated 15<sup>th</sup> May, 2025 under Section 196(1)(a)/299/352/353(1)(c), BNSS, 2023 whereupon learned Judicial Magistrate, Gurugram, Haryana by an order dated 13<sup>th</sup> May, 2025 allowed that the accused person may be remanded in transit till 3<sup>rd</sup> June, 2025 for production before the Chief Judicial Magistrate, Alipore, 24-Parganas (South).

7. The petitioner was thereafter produced before the Chief Judicial Magistrate, Alipore when simultaneously with the rejection of application for bail, the application made with the prayer for further police remand was also rejected. Such fact would corroborate

from the order dated 31<sup>st</sup> May, 2025. A copy of such order dated 31<sup>st</sup> May, 2025 in Garden Reach Police Case No. 136 of 2025 has placed before this Court by the learned Advocate General and is taken on record.

8. The learned Advocate General by narrating the facts and filing of the complaint, inter alia, including the FIR being lodged would submit that the police authorities in discharge of their obligations and having found that the complaint discloses a cognizable offence had initiated a case by lodging an FIR. The matter is under investigation. Although, he would not question the jurisdiction of the Court to pass an order for interim bail in a fit case, he would submit that this is not such a case where an ad interim bail should be granted. The petitioner is barely in custody for six days.

9. By drawing attention of the Court to the order passed by the Coordinate Bench on 13<sup>th</sup> June, 2025, he would submit that the issue as to whether service of Warrant of Arrest would constitute compliance of all provisions relating to intimation of the grounds of arrest has already been conclusively decided in the judgment delivered in the case of ***Kasireddy Upender Reddy vs. State of Andhra Pradesh & Ors*** reported in ***(2025) SCC Online SC 1228***. According to him, there are no procedural irregularities, for this Court at this stage to grant interim bail to the petitioner.

10. *Per contra*, Mr. Singh, learned Senior advocate representing the petitioner would submit that the petitioner is only a law student and is pursuing her course from Symbiosis Law College, Pune. According to the petitioner, since the petitioner started receiving threats and since, sexually explicit content which had been e-mailed to her outraging her modesty, the petitioner had made police complaints on 15<sup>th</sup> May, 2025 as also on 17<sup>th</sup> May, 2025 inter alia, seeking police protection. Copy of the complaint dated 15<sup>th</sup> May, 2025 as placed before this Court by the petitioner is taken on record. According to him, the petitioner was compelled to move out to Gurugram on the intervening night of 19<sup>th</sup> and 20<sup>th</sup> May, 2025 and at all material times until the time hereinafter mentioned remained unaware with regard to the complaint lodged against her. The FIR copy and the notices issued under Section 35(3) of the BNSS and the notice issued under Section 94 of the BNSS, 2023 were never served on her. He has placed before this Court in detail the FIR and would submit that neither the complaint dated 14<sup>th</sup> May, 2025, nor the FIR makes out any cognizable offence. That apart, he would submit that the provisions of Article 22 (1) of the Constitution of India and Section 47 of the BNSS, 2023 has been violated. The petitioner at the time of arrest was not made aware of the grounds of arrest, in the document captioned intimation of grounds of arrest, it was only



mentioned under the heading of grounds of arrest that a warrant of arrest had been issued. Mr. Singh would submit that he has subsequently been able to lay his hands on the order dated 22<sup>nd</sup> May, 2025 issued by the Chief Judicial Magistrate, Alipore, a copy whereof as placed before this Court is taken on record. By drawing the attention of this Court to the aforesaid order, he would submit that the learned Chief Judicial Magistrate, Alipore did not by the aforesaid order direct issuance of warrant of arrest. The warrant of arrest has been issued in a mechanical manner and the warrant of arrest as disclosed, does not make out grounds for the arrest. There has been complete non-compliance of the requirement of Section 47 of the BNSS 2023.

11. In this context, he by placing reliance on the judgment delivered in the case of **Vihaan Kumar vs. State of Haryana & anr.** reported in **2025 SCC OnLine SC 269** would submit that the Hon'ble Supreme Court had categorically laid down that the intimation of the ground of arrest must be in such a manner that the accused person is able to gather sufficient knowledge with regard to the basic facts constituting the grounds for arrest. He submits that non-compliance of the aforesaid provision entitles the petitioner to be released forthwith. On the issue of issuance of the warrant of arrest, he would submit that the judgment delivered in the case of **Arnesh Kumar vs. State of Bihar**



reported in **(2014) 8 SCC 273** categorically provides that without following the appropriate safeguards the order permitting detention and arrest should not be made in the cases where the offence punishable is less than 7 years. He has also relied on an unreported judgment delivered by the Bombay High Court in the case of ***Khadeejah Shahabuddin Shaikh vs. State of Maharashtra & Ors*** in **W.P. No. 6684 of 2025**. In the facts as noted above, he would submit that the petitioner should not be detained in the custody any further. There is no requirement for any further custodial interrogation. Pending decision of the writ petition on the issue of challenge to the FIR, he would submit that the petitioner is ready and willing to participate in the investigation.

12. Heard the learned advocates appearing for the respective parties and considered the materials on record. *Prima facie*, it appears that a complaint had been lodged on 14<sup>th</sup> May, 2025. To morefully appreciated the same the aforesaid complaint is reproduced hereinbelow:-

“To  
Officer In Charge  
Garden Reach Police Station  
Kolkata – 700024

Cc:  
To,  
Commissioner of Police, Kolkata  
Lalbazar Headquarter, Kolkata  
West Bengal

Cc:  
To,  
Shri Hari Kishore Kusumakar

IPS, ADG and IGPA  
Cyber Crime Wing, WB

Sub: Demand to register FIR against one resident of Kolkata named "Sharmista Panoli" under appropriate section for hurting religious sentiments of muslim community around the country by insulting Holy Prophet of Islam in a very abusive manner.

Respected Sir,

This letter is to draw your attention that one lady named "Sharmista Panoli" resident of Kolkata likely from Urbana NRI Complex, Kolkata and pursuing LAW from Symbiosis School of Law, Pune has made a blasphemous comment on the Prophet of Islam in a very abusive manner. This kind of act brings disharmony, unjust, unrest in the society and as a resident of Kolkata city we will not tolerate such kind of blasphemy against our Prophet in our city.

We demand to register FIR action against her under appropriate Section for hurting religious sentiments of muslim community around the country by publishing blasphemous content against the Prophet of Islam on 'X' (formerly Twitter) and on Instagram which is being viral on social media around 4:00 pm IST (14/05/2025).

We are attaching the link for the video in which the one lady "Sharmista Panoli" has blasphemously commented on Prophet of Islam with her dirty mouth, in which she abuses the Holy Prophet and tried to bring disharmony, unrest and communal dispute around the country.

Thus we demand strict action against such hate monger as soon as possible from Kolkata Police to maintain peace and harmony in our city and around the country. Such kind of blasphemy are completely intolerable by Muslim and will not rest until strict action been taken against such hate monger.

Hope, Kolkata Police will do their best to bring justice and to maintain peace in the State.

Video

Link:

[https://x.com/swaleha\\_2/status/1922547553733923285?s=48](https://x.com/swaleha_2/status/1922547553733923285?s=48)

Instagram ID: @Sharmishta\_19 --- X ID {Twitter ID}: @Sharmishta\_19

Yours Sincerely,

RASHIDI FOUNDATION – KOLKATA”

13. On the basis of the aforesaid complaint on the following date, i.e. on 15<sup>th</sup> May, 2025, an FIR was registered at 00.10 hours. A notice was issued by the Investigating Officer addressed to X Corp directing the authorities to take down and remove the post. A statement of the complainant appears to have been recorded on 15<sup>th</sup> May, 2025 itself wherein the complainant was of the view that the above post hurts religious sentiments.

14. Records would reveal that on 20th May 2025 a series of communications were issued under Section 35(3) of the BNSS as also under Section 94 of the BNSS 2023. It would also transpire that on 20th May 2025 as also on 21st May 2025, the S.I. of Garden Reach Police Station had written to the Officer-in-charge of Anandapur Police Station praying for police assistance for conducting raid / search in connection with the above case. On 21st May 2025, another set of notices under Section 35(3) of the BNSS 2023 was also issued and following the same on the basis of an application made by the Officer-in-charge of the Garden Reach Police Station on 22nd May 2025, the Learned Chief Judicial Magistrate, Alipore was pleased to pass the following order:-

“ The application for the IO regarding issuance of warrant against the Sharmista Panoli is taken up for hearing.

IO is present.

CD produced and perused.

The offence prima-facie transpires to be u/s.196(1)(a)/299/352/353/(1)(c) of BNSS, 2023. That being so, the offence so alleged herein this case, transpires to be cognizable one.

Ld. PP has prayed for issuance of arrest so made by the I.O.

Perused the record and CD.

According to Section 35 of BNSS 2023, a police officer has the power to arrest without arrest when there has been a commission of cognizable offence or there exists reasonable suspicion regarding commission of cognizable offence.

Section 45 of the BNSS 2023 speaks that a police officer for the purpose of arresting without warrant any person, whom he is authorized to arrest, may pursue such person, to any place in India.

That being so, the IO of this case has got ample power to arrest the above named accused persons from anywhere within India, as there persists reasonable suspicion of the commission of cognizable offence against the above named accused persons.

The IO of this case is at liberty to arrest Sharmista Panoli, against whom there prima-facie persists suspicion about the commission of cognizable offence, from anywhere within India.

Let a copy of this order be handed over the IO free of costs, for his convenience and to facilitate him in the process of arresting the above named accused from anywhere in India.

This order is made to facilitate investigation.”

15. Following the above, the petitioner was apprehended from Gurugram, Haryana at the address noted hereinabove. I find that along with the memo of arrest and the copy of seizure list, which reflects seizure of one black coloured iphone and one black coloured laptop of Del make with particulars provided therein, the petitioner was also supplied with the intimation of the grounds of arrest in the following terms:-

**INTIMATION OF GROUNDS OF ARREST**  
(As per Section 47 of the Bharatiya Nagarik Suraksha Sanhita, 2023)

Police Station: Garden Reach P.S.  
District/Division: West Division  
Case No.: 136 / 2025. Dt. 15/05/25 U/S 106(a)(i), 109/352/353(i)(c) BNS  
Date and Time of Arrest: 20/05/25 at about 01:20 pm.  
Place of Arrest: Room no. 104, Floor 2nd floor, Urvash Oasis, Block-C3, South City 3  
Name of the arrested Accused: Shamika Ranil Q Shamika Ranil Raj  
Father's / Mother's Name: Panthayraj Panah  
Address: \_\_\_\_\_  
Date of Birth/Age: 22 years.

**TO WHOM IT MAY CONCERN**

You are hereby informed that you are being arrested in connection with **FIR No. 136/25** dated 15/05/25, registered at Garden Reach Police Station, for the offence(s) punishable under Section(s) 196(1)(b) of the Bharatiya Nyaya Sanhita, 2023/Indian Penal Code / Other Applicable Law(s). 109/352/353(i)(c) BNS.

The grounds for your arrest are as follows:

- W/A issued by the C.J. Court of C.M. Alipore, in Ip (WB), vide CB-73/25 dt. 12/05/25
- 
- 

This intimation is being given to you in compliance with Section 47 of the BNSS, 2023.

Signature/Thumb Impression of Accused: \_\_\_\_\_  
Date & Time of Intimation: 20/05/25 at about 01:20 pm.  
Name of Arresting Officer: Paldon Bhunia  
Rank: Sergeant (S) of Garden Reach P.S.  
Signature of IO: Paldon Bhunia

16. In the light of the above, one of the issues that falls for consideration is whether intimating the accused that a warrant of arrest of the above nature that has been issued, would constitute sufficient compliance of Article 22 (1) of the Constitution of India read with Section 47 of the BNSS 2023.

17. To morefully appreciate, the relevant provision of Article 22(1) of the Constitution of India and Section 47 of the BNSS 2023 are extracted hereinbelow”-

Article 22:- Protection against arrest and detention in certain cases

(1) No person who is arrested shall be detained in custody without being informed, as soon as may be, of the grounds for such arrest nor shall he be denied the right to consult, and to be defended by, a legal practitioner of his choice.

### Section 47 of Bharatiya Nagarik Suraksha Sanhita, 2023

Person arrested to be informed of grounds of arrest and of right to bail.

(1) Every police officer or other person arresting any person without warrant shall forthwith communicate to him full particulars of the offence for which he is arrested or other grounds for such arrest.

(2) Where a police officer arrests without warrant any person other than a person accused of a non-bailable offence, he shall inform the person arrested that he is entitled to be released on bail and that he may arrange for sureties on his behalf.

18. In this context, Mr. Singh, learned Senior Advocate by placing reliance on the judgment delivered in the case of Vihaan Kumar (supra) submits that the requirement of informing the person arrested of grounds is not a mere formality but a mandatory procedure. In this context, the relevant paragraph wherein the Hon'ble Supreme Court has noted such requirement to be mandatory is extracted hereinbelow:-

“21. Therefore, we conclude:

- a) The requirement of arrest is a mandatory Informing a person arrested of grounds of requirement of Article 22(1);
- b) The Information of the grounds of arrest must be provided to the arrested person in such a manner that sufficient knowledge of the basic facts constituting the grounds is imparted and communicated to the arrested person effectively in the language which he understands. The mode and method of communication must be such that the object of the constitutional safeguard is achieved;
- c) When arrested accused alleges non-compliance with the requirements of Article 22(1), the burden will always be on the Investigating Officer/Agency to prove compliance with the requirements of Article 22(1);
- d) Non-compliance with Article 22(1) will be a violation of the fundamental rights of the accused guaranteed by the said Article. Moreover, it will amount to a violation of the right to personal liberty guaranteed by Article 21 of the Constitution. Therefore, non-compliance with the requirements of Article 22(1) vitiates the arrest of the accused. Hence,



further orders passed by a criminal court of remand are also vitiated. Needless to add that it will not vitiate the investigation, charge sheet and trial. But, at the same time, filing of chargesheet will not validate a breach of constitutional mandate under Article 22(1);

e) When an arrested person is produced before a Judicial Magistrate for remand, it is the duty of the Magistrate to ascertain whether compliance with Article 22(1) and other mandatory safeguards has been made; and

f) When a violation of Article 22(1) is established, it is the duty of the court to forthwith order the release of the accused. That will be a ground to grant bail even if statutory restrictions, on the grant of bail exist. The statutory restrictions do not affect the power of the court to grant bail when the violation of Articles 21 and 22 of the Constitution is established.

19. It may be noted that Mr. Singh, learned Senior Advocate by placing reliance on the judgment delivered in the case of Arunesh Kumar (supra) has, inter alia, asserted that in matters relating to offence punishable with less than 7 years of imprisonment, ordinarily the arrest is not necessary and safeguards are required to be followed. In this context, the relevant paragraphs are reproduced hereinbelow:-

“11. Our endeavour in this judgment is to ensure that police officers do not arrest the accused unnecessarily and Magistrate do not authorise detention casually and mechanically. In order to ensure what we have observed above, we give the following directions:

11.1. All the State Governments to instruct its police officers not to automatically arrest when a case under Section 498-A IPC is registered but to satisfy themselves about the necessity for arrest under the parameters laid down above flowing from Section 41 CrPC;

11.2. All police officers be provided with a check list containing specified sub-clauses under Section 41(1)(b)(i);

11.3. The police officer shall forward the check list duly filled and furnish the reasons and materials



which necessitated the arrest, while forwarding/producing the accused before the Magistrate for further detention;

11.4. The Magistrate while authorising detention of the accused shall peruse the report furnished by the police officer in terms aforesaid and only after recording its satisfaction, the Magistrate will authorise detention;

11.5. The decision not to arrest an accused, be forwarded to the Magistrate within two weeks from the date of the institution of the case with a copy to the Magistrate which may be extended by the Superintendent of Police of the district for the reasons to be recorded in writing;

11.6. Notice of appearance in terms of Section 41-A CrPC be served on the accused within two weeks from the date of institution of the case, which may be extended by the Superintendent of Police of the district for the reasons to be recorded in writing;

11.7. Failure to comply with the directions aforesaid shall apart from rendering the police officers concerned liable for departmental action, they shall also be liable to be punished for contempt of court to be instituted before the High Court having territorial jurisdiction.

11.8. Authorising detention without recording reasons as aforesaid by the Judicial Magistrate concerned shall be liable for departmental action by the appropriate High Court.

20. It may also be noted that the Learned Advocate General by placing reliance on the judgment delivered in the case of **Kasidreddy Upender Reddy (supra)** had attempted to justify the disclosure of the grounds of arrest to the petitioner by contending that service of warrant of arrest would constitute compliance of Article 22(1) of the Constitution of India and Section 47 of the BNSS 2023 and would submit that the Hon'ble Supreme Court despite being aware of the judgment delivered in the case of Vihaan Kumar (supra) has proceeded to pass the said judgment. As noted above, I find that the warrant of arrest which has

been issued appears to be issued in a mechanical manner especially having regard to the fact that the Court in its order dated 22<sup>nd</sup> May 2025 had only afforded liberty to the I.O. to arrest the petitioner by noting that I.O. has got ample power to arrest and that I.O. is at liberty to arrest the petitioner against whom there prima facie persists reasonable suspicion about the commission of cognizable offence. The order and consequential warrant of arrest, in my view does not satisfy the requirement of satisfaction of the Magistrate to authorize detention especially when the offence punishable was by imprisonment which may extend only up to three years and one of the Section charged was bailable and non cognizable. The above order appears to have been issued in oversight of the directions issued in the case of **Arnesh Kumar (supra)**. Although, when the writ petition was filed since, the order dated 22<sup>nd</sup> May 2025 issued by the Learned Chief Judicial Magistrate was not available there is no formal challenge to the same, but a Court exercising extra ordinary writ jurisdiction cannot keep its eyes shut to such an irregularity. This apart there also appears to be no appropriate compliance of the provisions of Article 22(1) of the Constitution of India read with Section 47 of the BNSS 2023, though the said issue may require further consideration upon exchange of affidavits.

21. I, however, note that in the instant case, one of the primary challenge in the writ petition is the complaint not disclosing a cognizable offence. The complaint has been

extracted hereinabove and from the complaint, there is nothing which could enlighten as to the exact comments made or published by the petitioner and to what extent the same would stand to injure.

22. I find that the Coordinate Bench by its order dated 3rd June 2025 has, in identical terms in paragraph 15 has noted that no material was produced to show the exact comments made by the petitioner. Though, notices have been issued under Sections 35(3)/94 of BNSS 2023, from the sequence of events narrated hereinabove, it would be clear that when the notices were sought to be served, the petitioner was not in Kolkata and taking note of the observations made by the Hon'ble Supreme Court in the case of **Arnab Monoranjan Goswami v. State of Maharashtra & Ors.** reported in **(2021) 2 SCC 427** especially in paragraph 63, I am of the view that it is the obligation of the Court in an application under Article 226 of the Constitution of India pending final disposal to a challenge to an FIR to consider the grant of interim bail, especially when the personal liberty of the petitioner has been interfered with by the state action which is claimed to be in excess of state power. Considering the issues raised especially as regards the complaint not disclosing any cognizable offence, inter alia, including non-compliance of the provisions of Article 22 (1) of the Constitution of India read with Section 47 of the BNSS 2023 as regards the non disclosure of the grounds of arrest and as to whether a warrant of arrest which in itself is non speaking and devoid

of any reasons could constitute adequate grounds, require further consideration by this Court.

23. Thus, noting the gravity of the offence and noting that the petitioner is a law student and is of tender age including the fact that the electronic gadgets having been seized there is little scope to tamper with the evidence and also considering the submissions of Mr. Singh, learned Senior Advocate that the petitioner is ready and willing to cooperate and participate in the investigation at this stage, without prejudice to her rights in the writ petition, I am of the view that custodial interrogation of the petitioner is not necessary.

24. Accordingly, the petitioner namely, Shamishta Panoli @ Sharmishta Panoli Raj be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten Thousand only) to the satisfaction of the Chief Judicial Magistrate, Alipore, subject to the conditions that the petitioner shall cooperate with the Investigating Officer, she shall not leave the country without expressed leave of the learned CJM, Alipore. If the petitioner requires to travel abroad for educational purpose, the same shall be considered by the Learned CJM, Alipore in accordance with law. The petitioner shall also not intimidate witnesses or tamper with evidence in any manner whatsoever. It is made clear that the I.O. shall not unnecessarily summon the petitioner and provide adequate notice and also would be conscious that the petitioner is pursuing her studies from Symbiosis Law School, Pune.

25. Before parting, I must note that as is available from the case diary, photograph of large scale crowd gathering is noticed. Having regard to the complaint of the petitioner dated 15th May 2025 and the submission made by the Learned Advocate General that a case has been registered, I am of the view that the police authorities should afford proper police protection to the petitioner. The police must enquire into the above complaint and file a report, as regards the progress of the investigation before the Court when the matter is taken up next.

26. Let affidavit in opposition be filed within 4 weeks after the summer break. Reply, if any, be filed within 2 weeks thereafter.

27. Liberty to mention before the regular Bench having appropriate determination.

28. All parties including the Learned CJM, Alipore / Jurisdictional Magistrate shall act on the basis of the server copy of this order duly downloaded from this Court's official website.

**(Raja Basu Chowdhury, J.)**

#### **L A T E R**

1. After the judgment is delivered in open Court, the Learned Advocate General prays for stay of the operation of the judgment.

2. The same is considered and refused.

**(Raja Basu Chowdhury, J.)**