

**HIGH COURT OF TRIPURA
AGARTALA
B.A. No.04 of 2025**

Applicant

Tara Miah Choudhury,
S/O Lt. Rajak Miah Choudhury,
Of Udaipur Town Sonamura,
P.S.- R.K. Pur, P.O.- R.K. Pur,
Gomati District, Tripura,
Pin-799120

-----**Petitioner**

**For and on Behalf of
Sahar Ali,**
S/O- Jamsar Ali,
Of Shimala Bari, Sub-Div- Bilasapara,
Saptgram, P.S.- Dhubri, Assam.

At present-

C/O Tara Miah Choudhury,
Of Udaipur Town Sonamura,
P.S.- R.K. Pur, P.O.- R.K. Pur,
Gomati District, Tripura,
Pin-799120

-----**Accused**

Versus

Non-applicant

**The State of Tripura,
Represented by its Secretary,**
Department of Home,
Government of Tripura,
Agartala, Tripura(W)

-----**Respondent**

For Applicant(s)	:	Mr. Debasish Datta, Advocate.
For Respondent(s)	:	Mr. Raju Datta, P.P, Mr. Rajib Saha, Addl. P.P.

HON'BLE MR. JUSTICE BISWAJIT PALIT

Order

07/02/2025

Heard Learned Counsel, Mr. Debasish Datta
appearing on behalf of the accused-in-custody and also heard
Learned P.P., Mr. Raju Datta appearing on behalf of the State-
respondent.

As per earlier order, we have received the record from the concerned Learned Special Judge and Learned P.P. also has produced the Case Diary.

Taking part in the hearing, Learned Counsel for the accused-in-custody first of all submitted that the present accused-in-custody has been falsely implicated in this case and there is no merit in this case and by this time, the I.O. of this case has laid charge-sheet against him before the Learned Jurisdictional Court. So, he urged for releasing the accused on bail in any condition.

On the other hand, Learned P.P. appearing on behalf of the State-respondent submitted that there are sufficient materials showing implication of the accused-in-custody with the alleged crime. So, considering the nature and gravity of the offence, Learned P.P. urged for further detention of the accused-in-custody till completion of trial of this case and urged for dismissal of the bail application.

This present case arose out of Killa PS Case No.14 of 2024 under Section 127, 140(4) of BNS 2023 and Section 6 of POCSO Act.

Heard both the sides at length and perused the record. The gist of the prosecution in short is that on 06.11.2024 at about 1500 hours, the son of the informant namely, Master X (name withheld), aged about 10 years and his two friends, Master Y (name withheld), aged about 10 years and Master Z (name withheld), aged about 08 years went to the nearby playground for the purpose of playing of games after completion of their classes. That time, seeing the victims, the

FIR named accused namely, Sahar Ali, i.e. the person-in-custody drew their attention and enticed them by offering chocolates and cookies and brought them away to the temporary labour room (made of JCI sheets) at Atharabhola PHC Complex and restrained the victims illegally and thereafter, the FIR named accused shown them porn videos by his mobile phone and after that the accused compelled the victims to rub his penis for masturbation. Out of enticement and compulsion, the victims one after another extracted semen from the penis of the accused-in-custody. Thereafter, the victims were forced to open their wearing apparels by the accused and being afraid of, the victims fled away and the matter was reported to the guardians and hence, the FIR was registered.

During investigation, the I.O. caused arrest the person-in-custody before the Court of Learned Special Judge on 08.11.2024 and since then he is lodging in custody. By this time, the I.O. has laid charge-sheet against the person-in-custody vide C.S. No.12/2024 dated 30.12.2024 and accordingly, by order dated 13.01.2025, Learned Special Judge, Gomati District, Udaipur took cognizance of offence punishable under Section 127/140(4) of BNS read with Section 6 of the POCSO Act. For the sake of convenience, I would like to refer herein below the relevant provisions of BNS which are as under:

SECTION 127 of BNS

"127. (1) Whoever wrongfully restrains any person in such a manner as to prevent that person from proceedings beyond certain circumscribing limits, is said "wrongfully to confine" that person.

(2) Whoever wrongfully confines any person shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to five thousand rupees, or with both.

(3) Whoever wrongfully confines any person for three days, or more, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine which may extend to ten thousand rupees, or with both.

(4) Whoever wrongfully confines any person for ten days or more, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine which shall not be less than ten thousand rupees.

(5) Whoever keeps any person in wrongful confinement, knowing that a writ for the liberation of that person has been duly issued, shall be punished with imprisonment of either description for a term which may extend to two years in addition to any term of imprisonment to which he may be liable under any other section of this Chapter and shall also be liable to fine.

(6) Whoever wrongfully confines any person in such manner as to indicate an intention that the confinement of such person may not be known to any person interested in the person so confined, or to any public servant, or that the place of such confinement may not be known to or discovered by any such person or public servant as hereinbefore mentioned, shall be punished with imprisonment of either description for a term which may extend to three years in addition to any other punishment to which he may be liable for such wrongful confinement and shall also be liable to fine.

(7) Whoever wrongfully confines any person for the purpose of extorting from the person confined, or from any person interested in the person confined, any property or valuable security or of constraining the person confined or any person interested in such person to do anything illegal or to give any information which may facilitate the commission of an offence, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

(8) Whoever wrongfully confines any person for the purpose of extorting from the person confined or any person interested in the person confined any confession or any information which may lead to the detection of an offence or misconduct, or for the purpose of constraining the person confined or any person interested in the person confined to restore or to cause the restoration of any property or valuable security or to satisfy any claim or demand, or to give information which may lead to the restoration of any property or valuable security, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine."

SECTION 140(4) of BNS

"140(4) Whoever kidnaps or abducts any person in order that such person may be subjected, or may be so disposed of as to be put in danger of being subjected to grievous hurt, or slavery, or to the unnatural lust of any person, or knowing it to be likely that such

person will be so subjected or disposed of, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine."

Further, I would like to refer herein below the relevant provision of Section 6 of the POCSO Act which provides as under:

SECTION 6 of POCSO Act

"6. Punishment for aggravated penetrative sexual assault.-- (1) Whoever commits aggravated penetrative sexual assault shall be punished with rigorous imprisonment for a term which shall not be less than twenty years, but which may extend to imprisonment for life, which shall mean imprisonment for the remainder of natural life of that person and shall also be liable to fine, or with death.

(2) The fine imposed under sub-section (1) shall be just and reasonable and paid to the victim to meet the medical expenses and rehabilitation of such victim."

From the case record, it appears that the case is at the stage of DC/FC. The trial of this case has not yet been commenced. However, considering the materials on record and also the period of detention of the accused-in-custody, at this stage, it appears that the prosecution could not place any materials before the Court for further detention of the accused person-in-custody.

So, considering the facts and circumstance of the case, the person-in-custody namely, Sahar Ali may be enlarged on bail of his execution of bond of Rs.50,000/- with two sureties of like amount to the satisfaction of Learned Special Judge, Gomati District, Udaipur on condition that the accused shall attend Court once in a week till completion of trial and he shall not leave the jurisdiction of the Court without prior permission of the Court in default the accused shall remain in J/C as before.

Send down the LCR along with a copy of this order. Also send down the Case Diary to I.O. through Learned P.P. along with copy of this order. Also a copy of this order be furnished to Learned Counsel for the accused-in-custody for information and necessary action.

With this observation, this bail application stands disposed of.

JUDGE



**MOUMITA
DATTA**

Purnita

Digitally signed by
MOUMITA DATTA
Date: 2025.02.07 17:22:13
+05'30'