

**HIGH COURT OF TRIPURA
AGARTALA**

BA No.20 of 2025

Smt. Kaishya Rani Molsom,
Daughter of Lagal Bahadur Molsom,
Resident of Jiba Karta Para,
P.O. Bullong Bassa,
P.S. Gandacherra,
District: Dhalai Tripura

**---Petitioner on behalf
of the accused person-
in-custody**

Sri Pritish Debbarma,
Age:37 years,
Son of Chitta Ranjan Debbarma,
Resident of Molsom Para (Jiba Karta Para),
P.O. Bullong Bassa, P.S. Gandacherra,
District: Dhalai Tripura

**---Accused Person-in-
custody**

-Vs-

The State of Tripura

---Respondent

For Applicant(s)	:	Mr. Subrata Sarkar, Sr. Adv. Mr. Kabrabam Dharendra Singha, Adv.
For Respondent(s)	:	Mr. Raju Datta, P.P. Mr. Rajib Saha, Addl. P.P.

HON'BLE MR. JUSTICE BISWAJIT PALIT

Order

17/04/2025

This bail application is filed under Section 483 of BNSS for releasing of the accused in custody namely Pritish Debbarma who is lodging in jail in connection with Gandacherra PS Case No.004 of 2025 under Section 65(1)/351(2) of BNS, 2023 read with Section 6 of POCSO Act.

Heard Learned Senior Counsel Mr. S. Sarkar assisted by Mr. K.D. Singha, Learned counsel appearing on behalf of the accused in custody and also heard Learned P.P. Mr. Raju Datta along with Mr. Rajib Saha, Learned Addl. P.P. appearing for the State-respondent.

Taking part in the hearing Learned Senior Counsel Mr. S. Sarkar first of all drawn the attention of the court that as per FIR the alleged occurrence took place in the month of September, 2024, but the FIR was laid on 21.02.2025. There was no explanation in respect of delay in the FIR laid by the informant in this regard. Learned Senior Counsel further submitted that the victim narrated the incident to her mother but surprisingly her mother remained silent about the entire matter and after passing over for a considerable time the FIR was laid to harass the present accused in custody and it was further submitted by Learned Senior Counsel that the accused was lodging in jail for last 55 days and by this time medical examination and other examination and the evidence of witnesses of the prosecution have already been recorded. So there remains nothing for the investigating agency for further detention of the accused in custody. Learned Senior Counsel further submitted that in para-6 of the petition it was alleged that one Ramenjoy Reang was responsible for the alleged commission of offence but this present accused has been falsely implicated in this case and he was also arrested on the very same day.

Finally Learned Senior Counsel submitted that in a case of this nature strict rigour of provision of Section 37 of NDPS Act would not apply and this POCSO legislation was enacted later on. So, considering the nature of allegation and the period of detention of the accused in custody some lenient view be taken and urged for release of the accused on bail in any condition and he referred two citations of the Hon'ble Allahabad High Court

wherein bail was granted. In **Monu vs. State of U.P. and 3 Others** in Case No. **Criminal Misc. Bail Application No.46827 of 2024** in para No.9 and 10 Hon'ble the Allahabad High Court observed as under:

9. In light of the judgment of the Supreme Court passed in Niranjana Singh and another vs. Prabhakar Rajaram Kharote and others AIR 1980 SC 785 this Court has avoided detailed examination of the evidence and elaborate documentation of the merits of the case as no party should have the impression that his case has been prejudiced. A prima facie satisfaction of case is needed but it is not the same as an exhaustive exploration of the merits in the order itself.

10. The well-known principle of "Presumption of Innocence Unless Proven Guilty," gives rise to the concept of bail as a rule and imprisonment as an exception."

In Shyamveer Yadav vs. State of U.P. and Others reported in 2024 SCC OnLine ALL 7963 wherein in para No.11 Hon'ble the Allahabad High Court observed as under:

"11. The well-known principle of "Presumption of Innocence Unless Proven Guilty," gives rise to the concept of bail as a rule and imprisonment as an exception."

Referring the aforesaid citations Learned Senior Counsel drawn the attention of the court that the principle of "presumption of innocence unless proven guilty" also be considered in this case.

On the other hand, Learned P.P. appearing for the State-respondent strenuously opposed the bail application and submitted that in this case the victim is of 13 years and due to the continuous act of sexual violence i.e. commission of rape by the accused upon the victim she became pregnant and from the statement of the victim and also the judicial statement recorded by the Learned Magistrate and also from the other statement of witnesses of the prosecution it transpires that this present accused is directly involved with the alleged commission of offence and for his heinous act the life of a child victim has been spoiled and if at

this stage any lenient view is taken in that case there is chance of tempering the evidence on record of the prosecution and also there is chance of threatening the life of the victim girl and also chance of absconsion of the accused. So Learned P.P. strongly opposed the bail application and submitted that for the sake of justice the application should be rejected.

As ordered earlier CD of this case is also produced by Learned P.P.

Considered.

In this case the prosecution was set into motion on the basis of an FIR laid by one Renuka Reang, the mother of the victim to O/C, Gonda Twisa Police Station alleging inter alia that about six months back i.e. in the month of September, 2024 on a day in the daytime in absence of her husband and the informant herself the accused Prithish Debbarma forcibly committed rape upon her minor daughter (name withheld) aged about 13 years to their house and due to fear she could not divulge the fact to anybody and during the period of said six months the said accused continuously committed rape upon her daughter by enticing her taking advantage of their absence. As a result of which her daughter became pregnant and on 20.02.2025 her daughter severely fell ill and her daughter was shifted to Gonda Twisa Hospital for treatment. Hence she laid the FIR.

Accordingly on the basis of FIR GNC PS Case No.004 of 2025 under Section 65(1)/351(2) of BNS 2023 and Section 6 of POCSO Act was registered. In course of investigation the I.O. caused arrest of the accused and forwarded him before the court on

22.02.2025 under arrest and since then he is lodging in jail. The investigation of the case is in progress. By this time the statement of the victim has been recorded under Section 183(6)(a) of BNSS and the I.O. also has recorded the statement of victim, her parents and other independent witnesses. The victim is also medically examined by the doctor. From the statement of the witnesses collected by I.O. up to the stage of investigation and also medical report of the victim it appears to this court that there is direct allegation showing implication of the accused in custody for the alleged crime and more so, the victim is a minor girl aged about 13 years and she is carrying pregnancy of 27 weeks one day per month gestation. From the report of I.O. further it appears that there is every chance of absconding of the accused.

The principle of the citations referred by Learned Senior Counsel appearing for the accused in custody is no doubt relevant but the principle of the said citations cannot be applied in this case because the facts of the present case is different from those cases.

Situated thus, considering the materials on record and the nature of allegation at this stage I find no scope to consider the bail application of the accused. Hence the bail application filed on behalf of the accused stands rejected. The accused is to remain in J/C as before. The I.O. be asked to expedite investigation and to submit report to the concerned Learned jurisdictional Magistrate. From the record further it appears that as per order of the Child Welfare Committee, Dhalai District the victim is presently kept in a home at Agartala. However, the CWC if necessary may consider

engagement of one support person for the assistance of the victim as per rule.

Send down the LCR along with a copy of this order and return back the CD to the I.O. through Learned P.P. along with a copy of this order. A copy of this order also be communicated to the CWC, Dhalai District for information and necessary action.

With this observation, this bail application stands disposed of.



**MOUMITA
DATTA**

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