

**HIGH COURT OF TRIPURA
AGARTALA
A.B.No.37 of 2025**

Sri Madan Debbarma,
aged about 58 years,
son of Late Sudhanya Debbarma,
resident of Adibashi Colony, Bishramganj(Masterpara),
P.S. Bishramganj, District-Sepahijala, Tripura

---- Applicant(s)

Versus

The State of Tripura

----Respondent(s)

For Applicant(s)	: Mr. Prasanta Sen Chowdhury, Adv.
For Respondent(s)	: Mr. Raju Datta, P.P.

HON'BLE MR. JUSTICE BISWAJIT PALIT

Order

21/05/2025

This bail application under Section 482 of BNSS, 2023 is filed for granting pre-arrest bail to the accused in connection with Melaghar P.S. Case No.021/2025 under Section 74 of BNS read with Section 8 of POCSO Act. Heard Mr. P. Sen Chowdhury, Learned counsel appearing on behalf of the petitioner and also heard Mr. R. Datta, Learned P.P. appearing on behalf of the State-respondent. Learned P.P. today produced the Case Diary along with the forwarding report of IO.

[02] In course of hearing of argument, Mr. P. Sen Chowdhury, Learned counsel appearing on behalf of the petitioner submitted that the petitioner is a Head Master who is a prestigious person and all his family members are also educated and duly qualified. Just to harass him, this present prosecution has been lodged against him. Referring the contents of the FIR he submitted that the allegation leveled against him is false and vexatious one. Police is trying to harass him in connection with this case and as such, he submitted that if he is not given the protection of pre-arrest bail then he would be seriously prejudiced.

[03] On the other hand, Mr. R. Datta, Learned P.P. appearing on behalf of the State-respondent producing the Case Diary strongly opposed the bail application and submitted that three students gave their statements before the Court showing implication of the accused with the alleged crime and urged for rejecting the pre-arrest bail application.

[04] This present case is registered on the basis of an FIR laid by one Sandhya Rani Jamatia on 02.05.2025 wherein she stated that on the alleged day i.e. on 01.05.2025 in the noon the accused with a view to hand over him the hindi book to her daughter in a room tried to outrage her modesty by touching different parts of her body. In course of investigation, two similar other students came forward and made their judicial statements before the Court including the daughter of the informant. This present case is registered under Section 74 of BNS read with Section 8 of POCSO Act. Under Section 74 of the Bharatiya Nyaya Sanhita, 2023, which is punishable with imprisonment for a term not less than one year which may extend to five years and with fine, and under Section 8 of the Protection of Children from Sexual Offences Act, 2012, which is punishable with imprisonment for a term not less than three years which may extend to five years and with fine.

[05] I have also perused the Case Diary and other relevant prosecution papers. Hon'ble Supreme Court of India in **Md. Asfak Alam versus State of Jharkhand and Another** reported in **(2023) 8 SCC 632** in para No.16 observed as under :

"16. The impugned order of rejecting the bail and directing the appellant, to surrender and later seek bail, therefore, cannot stand, and is hereby set aside. Before parting, the Court would direct all the courts seized of proceedings to strictly follow the law laid down in Arnesh Kumar : (2014)8 SCC 273 and reiterate the directions contained thereunder, as well as other directions.

16.1. (I) Arnesh Kumar case

"11. Our endeavour in this judgment is to ensure that police officers do not arrest the accused unnecessarily and Magistrates 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 checklist containing specified sub-clauses under Section 41(1)(b)(ii);
11.3. The police officer shall forward the checklist 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.
12. We hasten to add that the directions aforesaid shall not only apply to the cases under Section 498-A IPC or Section 4 of the Dowry Prohibition Act, the case in hand, but also such cases where offence is punishable with imprisonment for a term which may be less than seven years or which may extend to seven years, whether with or without fine."

16.2.(II) The High Court shall frame the above directions in the form of notifications and guidelines to be followed by the Sessions Courts and all other and criminal courts dealing with various offences.

16.3.(III) Likewise, the Director General of Police in all States shall ensure that strict instructions in terms of the above directions are issued. Both the High Courts and the DGPs of all States shall ensure that such guidelines and Directives/Departmental Circulars are issued for guidance of all lower courts and police authorities in each State within eight weeks from today.

16.4. (IV) Affidavits of compliance shall be filed before this Court within ten weeks by all the States and High Courts, through their Registrars."

From the aforesaid principle of law laid down by the Hon'ble Apex Court it appears to this Court that in the given case, there is no evidence of any issuing notice upon the petitioner by the IO of the case and considering the nature and gravity of the offence, I do not find any scope to disallow the pre-arrest bail application filed by the accused petitioner.

[06] Hence, the application for granting pre-arrest bail stands allowed with the following terms and conditions:

- (i) That in the event of arrest the petitioner namely Madan Debbarma be released on bail on execution of bail bond of

Rs.50,000/- with one surety of like amount to the satisfaction of O/C Melagarh P.S.

(ii) The accused shall not make any attempt to temper the evidence on record of the prosecution nor shall he make any attempt to threaten the witnesses of the prosecution.

(iii) The accused shall not leave the jurisdiction of the concerned P.S. without prior intimation and permission of the O/C of the concerned P.S.

In the event of violation of any of the conditions of bail the IO shall be at liberty to approach for cancellation of the pre-arrest bail application granted to the accused petitioner to the appropriate Court.

Send down the LCR along with a copy of this order.

Send down the Case Diary to the IO of this case through Learned P.P. along with a copy of this order. A copy of this order be also be furnished to Learned counsel appearing on behalf of the petitioner for information.

With this observation, the bail application stands disposed of.

JUDGE

MOUMITA
A DATTA

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MOUMITA DATTA
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