

**HIGH COURT OF TRIPURA  
AGARTALA**

**AB No.38 of 2025**

**1. Sri Sankar Das,**

Son of Late Rakhal Das

**2. Smt. Jali Rani Bhowmik (Das) @**

Smt. Doly Bhowmik (Das) @ Tinku,

Wife of Sri Sankar Das,

All are resident of Melaghar, Pal Para,

P.O. & P.S. Melaghar,

District: Sepahijala, Tripura

**---Applicant**

**-Vs-**

**The State of Tripura**

**---Respondent**

|                   |   |                                                                                                |
|-------------------|---|------------------------------------------------------------------------------------------------|
| For Applicant(s)  | : | Mr. Bibhal Nandi Majumder, Sr. Adv.<br>Mr. Samrat Sarkar, Adv.<br>Mr. Rounak Chakraborty, Adv. |
| For Respondent(s) | : | Mr. Raju Datta, P.P.                                                                           |

**HON'BLE MR. JUSTICE BISWAJIT PALIT**

**Order**

**21/05/2025**

This pre-arrest bail application under Section 482 of BNSS is filed by the accused-applicants who are wanted in connection with Sonamura PS Case No.2025SNM025 under Section 108/3(5) of BNS, 2023.

Heard Learned Senior Counsel Mr. B. N. Majumder assisted by Mr. Samrat Sarkar, Learned Counsel and Mr. Rounak Chakraborty, Learned Counsel appearing on behalf of the accused persons and also heard Mr. Raju Datta, Learned P.P. appearing on behalf of the state-respondent. As ordered earlier we have received the record from the concerned court of the Learned Jurisdictional Magistrate. Learned P.P. also produced the Case Diary as ordered earlier. On the last date i.e. on 16.05.2025 we

have heard both the sides and fixed today for perusal of the CD and hearing of this bail application.

Today in course of hearing Learned Senior Counsel first of all drawn the attention of the Court referring the contents of the FIR and submitted that from the contents of the FIR no case is made out against the present applicants involving their prosecution punishable under Section 108 of BNS, 2023. Learned Senior Counsel further in support of his contention drawn the attention of the Court referring the provision of Section 108 of BNS, 2023 and also the provision of Section 45 of BNS, 2023 and submitted that on bare perusal of the said provisions it is crystal clear that no case is made out against any of the present applicants under Section 108 of BNS, 2023.

Learned Senior Counsel to strengthen his submission referred one citation of the Hon'ble Apex Court in **Ramesh Kumar vs. State of Chhattisgarh** reported in **2001 AIR SCW 4282** wherein the Hon'ble Apex Court in para No.20 has been pleased to explain the term instigation to invoke prosecution under Section 108 of BNS. Para No.20 runs as follows:

**"20. Instigation is to goad, urge forward, provoke, incite or encourage to do "an act". To satisfy the requirement of instigation though it is not necessary that actual words must be used to that effect or what constitutes instigation must necessarily and specifically be suggestive of the consequence. Yet a reasonable certainty to incite the consequence must be capable of being spelt out. The present one is not a case where the accused had by his acts or omission or by a continued course of conduct created such circumstances that the deceased was left with no other option except to commit suicide in which case an instigation may have been inferred. A word uttered in the fit of anger or emotion without intending the consequences to actually follow cannot be said to be instigation."**

In addition to that he further referred another citation in **S.S. Chheba vs. Vijay Kumar Mahajan & Another** reported in

**2010 AIR SCW 4938** wherein in para No.24 Hon'ble the Apex Court further observed as under:

**"24. The learned counsel also placed reliance on another judgment of this Court in Ramesh Kumar v. State of Chhattisgarh (2001) 9 SCC 618. In this case, a three-Judge Bench of this Court had an occasion to deal with a case of a similar nature. In a dispute between the husband and wife, the appellant husband uttered "you are free to do whatever you wish and go wherever you like". Thereafter, the wife of the appellant Ramesh Kumar committed suicide. The Court in para 20 has examined different shades of the meaning of "instigation". Para 20 reads as under:**

**"20. Instigation is to goad, urge forward, provoke, incite or encourage to do 'an act'. To satisfy the requirement of instigation though it is not necessary that actual words must be used to that effect or what constitutes instigation must necessarily and specifically be suggestive of the consequence. Yet a reasonable certainty to incite the consequence must be capable of being spelt out. The present one is not a case where the accused had by his acts or omission or by a continued course of conduct created such circumstances that the deceased was left with no other option except to commit suicide in which case an instigation may have been inferred. A word uttered in the fit of anger or emotion without intending the consequences to actually follow cannot be said to be instigation."**

Referring both the citations Learned Senior Counsel submitted that considering the present situation and the facts and circumstances of the case the present applicants are required to be granted the concession of pre-arrest bail for the sake of justice.

On the other hand, Learned P.P. strongly opposed the bail application and submitted that the case is at the very preliminary stage of investigation. By this time the I.O. has collected some materials showing implication of the present applicants with the alleged crime and furthermore accused No.1 Taniya Das (in the FIR) was granted bail by the Court of Learned Sessions Judge, Sonamura, Sepahijala District on the ground that she is having one milk sucking baby. Learned P.P. further submitted that the citations as relied upon by Learned Senior Counsel are based upon the conclusion of the trial and the principles of those citations cannot be applied during this preliminary stage of investigation and he further submitted that if

at this stage the bail application is considered in that case there is every chance of tempering the evidence on record of the prosecution and urged for rejection of the bail application.

This present case was registered on the basis of an FIR laid by the father of the deceased Sri Niranjan Das to O.C., Sonamura P.S. alleging inter alia that his son Rupantar Das got appointed as a Teacher in the year 2022 under the Education Department, Government of Tripura and thereafter his marriage was solemnized with one Taniya Das, the accused No.1 of the FIR. After marriage both his son and the accused No.1 started conjugal life for a period of two months and thus the accused No.1 became pregnant. Thereafter said Taniya Das was shifted to her parental house for the purpose of her care and nursing. But she did not turn up. So on 26.01.2024 his son and along with some of the local people went to the parental home of Taniya when the accused persons refused to return back and the accused Taniya used some unparliamentarily words. Thereafter on 16.03.2025 his son was called by the accused persons with an assurance that Taniya would be sending back to her matrimonial home. But when his son went there that time the accused persons refused to return her back stating that he should come with some respectable persons for a formal talk. Thereafter the informant along with some neighbouring persons went to the house of the accused applicants when after discussion it was decided that Taniya would be returning back to her matrimonial home. But suddenly the accused No.2 i.e. the mother-in-law of the deceased made some unparliamentarily words to his son with some filthy

languages. Thereafter on that day in the evening they returned back and as a result of which his son mentally broke down. Thereafter on that day in the night again his son made a call from his mobile to his wife and requested her to come back when the present applicants also used filthy languages towards his son and thereafter his son started weeping and went to his room. But on 17.03.2025 in the morning when his son was not awakening from his sleep on their call then they had broken the door and found that his son was hanging from ceiling of the room and committed suicide. This is the gist of the FIR and on the basis of the FIR this present case was registered.

I have heard both the sides at length and perused the citations referred by the Learned Senior Counsel and also the relevant provisions of law referred by Learned Senior Counsel regarding allegation of the prosecution. It is the admitted position that, the case is at the very initial stage of investigation and by this time Learned Sessions Judge has granted pre-arrest bail to the accused No.1 on the ground that she is having one milk sucking baby. Since the investigation of the case is in progress so at this stage it would not be proper to give any specific observation regarding application of the particular provision of law which may hamper the investigation of the case. However, since by this time the I.O. has recorded the statement of some of the witnesses and also arranged for recording statement of some of the witnesses by the Learned Magistrate which are also available on the record. It appears to this court that the actual dispute probably arose amongst the rival parties on the ground that the

accused Taniya Das did not return back to her matrimonial home after repeated communication by the deceased and his family members. Now regarding application of provision of Section 108 of BNS since the investigation is in progress so till recording evidences of the witnesses of the prosecution it is very difficult to give any specific observation as to whether Section 108 would be applied or not and this observation only can be given after conclusion of trial of the case in the event of filing chargesheet by the I.O. However so far as the materials collected by I.O. it appears to this court that *prima facie* involvement of the accused-applicant No.2, Jali Rani Bhowmik (Das) @ Smt. Doly Bhowmik (Das) @ Tinku cannot be ruled out at this stage. So I do not find any scope to consider her pre-arrest bail application at this stage being prematured one. However, considering the materials on record up to the stage of investigation it appears that the custodial interrogation of accused No.1 Sankar Das may not be required because from the Case Diary I do not find any sufficient materials showing his direct implication with the alleged prosecution levelled against the accused person under Section 108 of BNS. As such, I am inclined to consider his pre-arrest bail application at this stage and accordingly the pre-arrest bail application in respect of accused Sankar Das is hereby allowed with the following terms and conditions:

- (i) That in the event of arrest the accused shall execute a bail bond of Rs.50,000/- (fifty thousand) with one surety of like amount to the satisfaction of the O.C. of the concerned P.S.;

- (ii) The accused shall not make any sort of attempt to temper or hamper the evidence on record of the prosecution;
- (iii) The accused shall not leave the jurisdiction of the Court without any prior intimation and permission of the O.C. of the concerned P.S.

However, it is made clear that during investigation if it is found that the accused violates the condition of bail in that case the I.O. shall be at liberty to file appropriate application to the concerned court for cancellation of the privilege granted to him.

With this observation, this pre-arrest bail application stands disposed of.

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

Return back the CD to the I.O. through Learned P.P. along with a copy of this order. Also a copy of this order be furnished to the Learned Senior Counsel for information and necessary action.

**JUDGE**

**MOUMITA  
DATTA**

*Moumita*

Digitally signed by  
MOUMITA DATTA  
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