

**HIGH COURT OF TRIPURA
AGARTALA
A.B. No.76 of 2025**

Sri Tapan Debnath,
S/O-Sri Rebati Debnath,
Of West Ghilatali, Manipuri Basti,
P.S.: Kalyanpur, Dist.: Khowai Tripura.

----- Accused applicant(s)

Versus

The State of Tripura

-----Respondent(s)

For Applicant(s)	:	Ms. Piyali Chakraborty, Adv.
For Respondent(s)	:	Mr. Raju Datta, P.P. Mr. Rajib Saha, Addl. P.P.

HON'BLE MR. JUSTICE BISWAJIT PALIT

Order

03/11/2025

This bail application under Section 482 of BNSS is filed for granting pre-arrest bail to the accused-applicant namely, Sri Tapan Debnath in connection with Kalyanpur PS case No.2025 KLN 017 registered under Section 108 of BNS, 2023.

Heard Learned Counsel, Ms. Piyali Chakraborty appearing on behalf of the accused-applicant. Also heard Learned P.P., Mr. Raju Datta along with Learned Addl. P.P., Mr. Rajib Saha appearing on behalf of the State-respondent.

As ordered by this Court, received the record from the Learned Trial Court. Learned P.P. has also produced the case diary.

In course of hearing, Learned Counsel, Ms. Chakraborty appearing on behalf of the accused-applicant submitted that although the case has been registered under Section 108 of BNS, 2023 but considering the materials on record, there is no scope to apply the

aforesaid provision of Section 108 of BNS, 2023 against the present accused-applicant. Referring the contents of the F.I.R., Learned Counsel for the accused-applicant submitted that if the prosecution story is considered to be true then why in this case, no step was taken by the informant party against the present accused-applicant. Furthermore, from the prosecution story it appears that the accused-applicant used to visit the house of the victim since long back without any objection. Learned Counsel further submitted that even the story of illicit relation as projected by the prosecution is totally false and concocted and the accused-applicant has been falsely implicated in this case. It was further submitted by Learned Counsel for the accused-applicant that it was the case of the prosecution that the accused-applicant took a considerable amount of money from the victim with a view to make arrangement for release of her husband who was in custody at Bihar but, it has not been explained by the prosecution how the money was arranged by the victim. Moreso, on perusal of the F.I.R. it will be found that no specific date and time was mentioned about how and when the victim was subjected to harassment/cruelty by the accused-applicant and when the victim was subjected to physical relation with the accused-applicant. Moreso, when and how and on which date the payment was made by the victim, nothing is being reflected in the F.I.R. against the accused-applicant. So, Learned Counsel for the accused-applicant submitted that it is a clear case of fabrication against the accused-applicant.

In support of her submission, Learned Counsel for the accused-applicant relied upon one citation of the Hon'ble Supreme Court of India in **Gurcharan Singh vs. State of Punjab** reported in

(2020) 10 SCC 200 wherein in para Nos.17 and 18, Hon'ble the Apex Court observed as under:

"17. While dealing with a case of abetment of suicide in Amalendu Pal v. State of W.B. [Amalendu Pal v. State of W.B., (2010) 1 SCC 707 : (2010) 1 SCC (Cri) 896] , Dr M.K. Sharma, J. writing for the Division Bench explained the parameters of Section 306 IPC in the following terms : (SCC p. 712, paras 12-13)

"12. Thus, this Court has consistently taken the view that before holding an accused guilty of an offence under Section 306 IPC, the court must scrupulously examine the facts and circumstances of the case and also assess the evidence adduced before it in order to find out whether the cruelty and harassment meted out to the victim had left the victim with no other alternative but to put an end to her life. It is also to be borne in mind that in cases of alleged abetment of suicide there must be proof of direct or indirect acts of incitement to the commission of suicide. Merely on the allegation of harassment without there being any positive action proximate to the time of occurrence on the part of the accused which led or compelled the person to commit suicide, conviction in terms of Section 306 IPC is not sustainable.

13. In order to bring a case within the purview of Section 306 IPC there must be a case of suicide and in the commission of the said offence, the person who is said to have abetted the commission of suicide must have played an active role by an act of instigation or by doing certain act to facilitate the commission of suicide. Therefore, the act of abetment by the person charged with the said offence must be proved and established by the prosecution before he could be convicted under Section 306 IPC."

18. In Mangat Ram v. State of Haryana [Mangat Ram v. State of Haryana, (2014) 12 SCC 595 : (2014) 5 SCC (Cri) 127] , which again was a case of wife's unnatural death, speaking for the Division Bench, K.S.P. Radhakrishnan, J. rightly observed as under : (SCC p. 606, para 24)

"24. We find it difficult to comprehend the reasoning of the High Court [Mangat Ram v. State of Haryana, Criminal Appeal No. 592-SB of 1997, decided on 27-5-2008 (P&H)] that "no prudent man is to commit suicide unless abetted to do so". A woman may attempt to commit suicide due to various reasons, such as, depression, financial difficulties, disappointment in love, tired of domestic worries, acute or chronic ailments and so on and need not be due to abetment. The reasoning of the High Court that no prudent man will commit suicide unless abetted to do so by someone else, is a perverse reasoning.""

Reference was placed upon another citation of the Hon'ble Apex Court in **Geo Varghese vs. State of Rajasthan & Anr.**, reported in **(2021) 19 SCC 144** wherein in para Nos.15, 16, 17 and 22, Hon'ble the Apex Court observed as under:

"15. The ordinary dictionary meaning of the word "instigate" is to bring about or initiate, incite someone to do something. This Court in Ramesh Kumar v. State of Chhattisgarh [Ramesh Kumar v. State of Chhattisgarh, (2001) 9 SCC 618 : 2002 SCC (Cri) 1088] has defined the word "instigate" as under : (SCC p. 629, para 20)

"20. Instigation is to goad, urge forward, provoke, incite or encourage to do "an act"."

16. The scope and ambit of Section 107IPC and its co-relation with Section 306IPC has been discussed repeatedly by this Court. In S.S. Chheena v. Vijay Kumar Mahajan [S.S. Chheena v. Vijay Kumar Mahajan, (2010) 12 SCC 190 : (2011) 2 SCC (Cri) 465] , it was observed as under : (SCC p. 197, para 25)

"25. Abetment involves a mental process of instigating a person or intentionally aiding a person in doing of a thing. Without a positive act on the part of the accused to instigate or aid in committing suicide, conviction cannot be sustained. The intention of the legislature and the ratio of the cases decided by the Supreme Court is clear that in order to convict a person under Section 306IPC there has to be a clear mens rea to commit the offence. It also requires an active act or direct act which led the deceased to commit suicide seeing no option and that act must have been intended to push the deceased into such a position that he committed suicide."

17. In a recent pronouncement, a two-Judge Bench of this Court in Arnab Manoranjan Goswami v. State of Maharashtra [Arnab Manoranjan Goswami v. State of Maharashtra, (2021) 2 SCC 427 : (2021) 1 SCC (Cri) 834] , while considering the co-relation of Section 107IPC with Section 306IPC has observed as under : (SCC p. 462, paras 47-48)

"47. The above decision [State of Telangana v. Habib Abdullah Jeelani, (2017) 2 SCC 779 : (2017) 2 SCC (Cri) 142] thus arose in a situation where the High Court had declined [Habib Abdullah Jeelani v. State of Telangana, 2014 SCC OnLine Hyd 1299] to entertain a petition for quashing an FIR under Section 482CrPC. However, it nonetheless directed the investigating agency not to arrest the accused during the pendency of the investigation. This was held to be impermissible by this Court. On the other hand, this Court clarified that the High Court if it thinks fit, having regard to the parameters for quashing and the self-restraint imposed by law, has the jurisdiction to quash the investigation "and may pass appropriate interim orders as thought apposite in law". Clearly therefore, the High Court in the present case has misdirected [Arnab Manoranjan Goswami v. State of Maharashtra, 2020 SCC OnLine Bom 2693] itself in declining to enquire prima facie on a petition for quashing whether the parameters in the exercise of that jurisdiction have been duly established and if so whether a case for the grant of interim bail has been made out. The settled principles which have been consistently reiterated since the judgment of this Court in State of Haryana v. Bhajan Lal [State of Haryana v. Bhajan Lal, 1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426] (Bhajan Lal) include a situation where the allegations made in the FIR or the complaint, even if they are taken at their face value and accepted in their entirety, do not prima facie constitute any offence or make out a case against the accused. This legal position was recently reiterated in a decision by a two-Judge Bench of this Court in Kamal Shivaji Pokarnekar v. State of Maharashtra [Kamal Shivaji Pokarnekar v. State of Maharashtra, (2019) 14 SCC 350 : (2019) 4 SCC (Cri) 846] .

48. The striking aspect of the impugned judgment [Arnab Manoranjan Goswami v. State of Maharashtra, 2020 SCC OnLine Bom 2693] of the High Court spanning over fifty-

six pages is the absence of any evaluation even prima facie of the most basic issue. The High Court, in other words, failed to apply its mind to a fundamental issue which needed to be considered while dealing with a petition for quashing under Article 226 of the Constitution or Section 482CrPC. The High Court, by its judgment dated 9-11-2020 [Arnab Manoranjan Goswami v. State of Maharashtra, 2020 SCC OnLine Bom 2693] , has instead allowed the petition for quashing to stand over for hearing a month later, and therefore declined to allow the appellant's prayer for interim bail and relegated him to the remedy under Section 439CrPC. In the meantime, liberty has been the casualty. The High Court having failed to evaluate prima facie whether the allegations in the FIR, taken as they stand, bring the case within the fold of Section 306 read with Section 34IPC, this Court is now called upon to perform the task."

22. What is required to constitute an alleged abetment of suicide under Section 306IPC is there must be an allegation of either direct or indirect act of incitement to the commission of offence of suicide and mere allegations of harassment of the deceased by another person would not be sufficient in itself, unless, there are allegations of such actions on the part of the accused which compelled the commission of suicide. Further, if the person committing suicide is hypersensitive and the allegations attributed to the accused are otherwise not ordinarily expected to induce a similarly situated person to take the extreme step of committing suicide, it would be unsafe to hold the accused guilty of abetment of suicide. Thus, what is required is an examination of every case on its own facts and circumstances and keeping in consideration the surrounding circumstances as well, which may have bearing on the alleged action of the accused and the psyche of the deceased."

Referring the same, Learned Counsel for the accused-applicant submitted that the present case is squarely covered by the aforesaid citations of the Hon'ble Apex Court and urged for granting pre-arrest bail to the accused-applicant.

On the other hand, Learned P.P. strongly opposed the submission made by Learned Counsel for the accused-applicant and submitted that there is no scope to grant pre-arrest bail to the accused-applicant because he is directly involved with the alleged suicide of the victim. Learned P.P. fairly submitted that during investigation, the I.O. has collected sufficient materials against the present accused-applicant who for the purpose of arrangement of bail of the husband of the victim took a huge amount of money from her. The victim paid the amount to the accused-applicant on good faith but he did not keep his words. Finally, he started blackmailing the victim

and with assurance to marry her, he also started making physical relation with the victim and threatened her over mobile on different occasions to divulge the fact to the villagers, if she does not agree to marry with the accused-applicant. Learned P.P. further submitted that from the post-mortem report and the CDR analysis, it will be clearly transpired that even on the last moment, the accused-applicant gave so many missed calls to the victim and on being socially stigmatized and upon mental harassment, the victim was compelled to commit suicide. So, Learned P.P. finally urged for rejection of the present pre-arrest bail application.

In the case at hand, the prosecution was set into motion on the basis of an F.I.R. laid by one Smt. Bina Deb to O/C Kalyanpur PS alleging *inter alia* that her son, Sri Malin Ranjan Deb was in custody for a considerable period of time and taking this advantage, the accused-applicant met with her daughter-in-law namely, Binapani Nath and assured her to make arrangement for release of her husband, i.e., Sri Malin Ranjan Deb from jail. On good faith, the victim gave Rs.80,000-Rs.90,000/- to the accused-applicant but, he failed to keep his word and finally on this issue a huge hot altercation took place between the informant party with the accused-applicant. After that, the accused-applicant made illicit relation with the victim, Binapani Nath and when the informant raised protect, that time, the accused-applicant threatened them and the matter was reported to the village dignitaries but nothing could be settled. Thereafter, the accused-applicant again made conspiracy against the victim. The informant asked the accused-applicant not to cause any mental torture upon her daughter-in-law but he continued to do the same and finally on 07.09.2025 her

daughter-in-law consumed poison and succumbed to death on 08.09.2025. On the basis of the F.I.R. laid by the informant the case has been registered. In course of investigation, the I.O. has recorded the statement of so many witnesses who are conversant with the facts and circumstances of this case.

I have perused the case diary produced by the prosecution.

The present case is registered under Section 108 of the BNS, 2023. For the sake of convenience, let us reproduce hereinbelow the relevant provision of Section 108 of BNS:

"108. Abetment of suicide. – If any person commits suicide, whoever abets the commission of such suicide, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine."

From the aforesaid provision it appears that if any person commits suicide and whoever abets to commit such suicide, shall be punished with imprisonment for a term which may extend to 10(ten) years and shall also be liable to fine.

Here, in the case at hand, prosecution case was that the accused-applicant assured the victim to make arrangement for release of her husband from jail but failed to do so and later on, he made illicit relation with the victim and started having physical relation with her with a promise to marry her and also threatened her. The village baithok took place but, ultimately nothing could be settled and finally, the victim committed suicide. From the statement of witnesses so far collected by the I.O. and also from the F.I.R., it appears that the issue was continuing for a considerable period of time but surprisingly neither the informant nor the victim at any point of time took any legal step seeking redress against the accused-applicant.

Now, if we believe the first part of the prosecution story that accused-applicant took money from the victim amounting to

Rs.80,000-Rs.90,000/- and failed to keep his promise in that case also, the victim could approach for proper recourse of law but nothing was done. Again, if we believe the second part of the prosecution story that the accused-applicant made physical relation with the victim with a promise to marry her and ultimately, refused to keep his promise in that case also, the victim could take recourse under the appropriate provisions of law. However, in the aforesaid events, no relief was sought for either by the informant or by the victim during her lifetime. Furthermore, if we agree that the victim was also consented to the physical relation in that case also the informant could take recourse of law but, no such step was taken in this regard by the victim or by the informant and her family members.

However, since the investigation of the case is in progress, at this stage, any observation would be fatal to the case of the prosecution.

So, from the materials so far collected by the I.O. it cannot be said that the accused-applicant did not commit any offence but, at this stage, I do not find sufficient materials for application of Section 108 of BNS, 2023 against the present accused-applicant. The citations as referred by Learned Counsel for the accused-applicant appear to be significant for the decision of the present pre-arrest bail application.

So, considering the materials on record and the facts and circumstances of this case, I am inclined to grant pre-arrest bail to the accused-applicant in the event of his arrest of his execution of bond of Rs.50,000/- with one surety of like amount to the satisfaction of the O/C of concerned PS with the following terms and conditions:

- (i) That the accused-applicant shall appear before the I.O. as and when called for, for the sake of investigation.
- (ii) That the accused shall not leave the jurisdiction of the O/C of the concerned PS without prior permission.
- (iii) That the accused shall not make any attempt to tamper the evidence on record of the prosecution.

If the conditions laid down are violated by the accused-applicant in that case the prosecution shall be at liberty to approach to the concerned Court for cancellation of his bail in accordance with law.

With this observation, the present anticipatory bail application stands allowed and disposed of.

Send down the record to the Learned Trial Court 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. A copy of this order also be supplied free of cost to the Learned counsel for the accused-applicant for information and compliance.

JUDGE

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