

**HIGH COURT OF TRIPURA
AGARTALA
A.B. No.82 of 2025**

Sahadat Hossen, age 40 years,
S/O-Lt. Rasul Uddain,
Resident of Chandrapur, Bhuiya Para,
P.S.-Radhakishorepur, Udaipur,
Gomati Tripura.

---- Accused applicant(s)

Versus

The State of Tripura
(To be represented by the Ld Public Prosecutor,
Hon'ble High Court of Tripura)

----Respondent(s)

For Applicant(s)	:	Mr. Purusuttam Roy Barman, Sr. Adv. Mr. Kawsik Nath, Adv.
For Respondent(s)	:	Mr. Rajib Saha, Addl. P.P.

HON'BLE MR. JUSTICE BISWAJIT PALIT

Order

21/11/2025

This anticipatory bail application under Section 482 of BNSS, 2023 is filed for granting pre-arrest bail to the accused-applicant namely, Sahadat Hossen in connection with R.K. Pur Women PS case No.2025 WRP 042 registered under Sections 85/64(2)(f)/115(2)/ 351(3)/319(2) of BNS, 2023.

Heard Learned Senior Counsel, Mr. Purusuttam Roy Barman assisted by Learned Counsel, Mr. Kawsik Nath appearing on behalf of the accused-applicant. Also heard 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 Addl. P.P. has also produced the case diary.

Taking part in the hearing, Learned Senior Counsel for the accused-applicant first of all drawn the attention to this Court to the

contents of the F.I.R. and submitted that this is nothing but a manufactured case against the accused-applicant. Learned Senior Counsel submitted that the informant and the present accused-applicant got married to each other in the year 2011 under Special Marriage Act, 1954. The Certificate of Marriage has been issued by Special Marriage Officer, West Tripura District i.e. ADM & Collector, West Tripura District on 19.09.2011 (*Annexure-2*). Since 2011, they are living together as husband and wife and out of their marital tie, two issues were born, who by this time have grown up. Learned Senior Counsel submitted that both the informant and the accused-applicant are leading peaceful conjugal life as husband and wife but, some of the persons of the locality, to grab the land property of the deceased husband (first husband) of the informant have compelled her to lodge complaint against the accused-applicant and his brother. It was further submitted by Learned Senior Counsel that after filing of the F.I.R. on 09.10.2025, the informant on several occasions went to the concerned PS to withdraw her case but, that was not considered by the O/C of the concerned PS. Learned Senior Counsel further submitted that narrating everything, the informant had also forwarded one letter to the Superintendent of Police, Udaipur, Gomati District but inspite of that no action has been taken. Now, just to harass the accused-applicant the police has become more pro-active at the instance of the third persons who forced the informant-cum-victim to lodge the F.I.R. against the accused-applicant and his brother with a mala fide intention to grab the property of her first husband at Rajarbagh, Udaipur.

In support of his contention, Learned Senior Counsel relied upon one citation of the High Court of Allahabad in **Salamat Ansari &**

Ors. vs. State of U.P. and Ors. [in Crl. Mis. Writ Petition No.11367 of 2020] reported in **2020 SCC OnLine All 1382** where the High Court of Allahabad dismissed the F.I.R. Learned Senior Counsel submitted that this present case is squarely covered by the said citation of High Court of Allahabad.

On the contrary, Learned Addl. P.P. for the State-respondent drawn the attention of this Court that the submission of Learned Senior Counsel cannot be accepted at this stage because the informant made incriminating statement against the accused-applicant and his brother not only in the F.I.R. but also during her statement to the police and to the Court, she narrated the same fact. Had there be any force or coercion, in that case she could divulge the fact to Learned Magistrate also who recorded her judicial statement. So, at this stage of investigation, there is no scope to grant pre-arrest bail to the present accused-applicant.

Today, in course of hearing the informant appeared before this Court in-person. She was examined in camera when she stated that she was married to one Swapan Sarkar and after his death she made in contact with the accused-applicant and out of love and affection they got married to each other under Special Marriage Act. The informant further stated that since 2011 she is staying with her husband i.e. the accused-applicant and leading peaceful conjugal life. But, some local persons namely, Sameer Pal and Pritam Dutta forced her to lodge the complaint against the accused-applicant and his brother and under their pressure she was compelled to divulge everything, otherwise her life and the lives of her children would be in danger.

Now, after hearing both the sides it is to determine as to whether at this stage there is scope to grant pre-arrest bail to the present accused-applicant?

I have perused the application for bail and the connected documents submitted on behalf of the accused-applicant. Also perused the initial F.I.R. laid by the informant and the case diary produced by the prosecution.

At the time of hearing, Learned Addl. P.P. only drawn the attention of this Court the contents of the F.I.R., the statement of the informant to the police and also the statement recorded by Learned Magistrate wherein she made incriminating statement against the accused-applicant. However, regarding the documents annexed with the application, Learned Addl. P.P. did not whisper any single word that those are fabricated and manufactured one.

I have also perused the citation of the High Court of Allahabad. In para Nos.8, 9, 11 and 14, the said High Court gave the following observations and finally quashed the F.I.R:

"8. We do not see Priyanka Kharwar and Salamat as Hindu and Muslim, rather as two grown up individuals who out of their own free will and choice are living together peacefully and happily over a year. The Courts and the Constitutional Courts in particular are enjoined to uphold the life and liberty of an individual guaranteed under Article 21 of the Constitution of India. Right to live with a person of his/her choice irrespective of religion professed by them, is intrinsic to right to life and personal liberty. Interference in a personal relationship, would constitute a serious encroachment into the right to freedom of choice of the two individuals. We fail to understand that if the law permits two persons even of the same sex to live together peacefully then neither any individual nor a family nor even State can have objection to relationship of two major individuals who out of their own free will are living together. Decision of an individual who is of the age of majority, to live with an individual of his/her choice is strictly a right of an individual and when this right is infringed it would constitute breach of his/her fundamental right to life and personal liberty as

it includes right to freedom of choice, to choose a partner and right to live with dignity as enshrined in Article 21 of the Constitution of India.

9. The Apex Court in *Shafin Jahan v. Asokan K.M.*, (2018) 16 SCC 368, decided on April 9, 2018, held as under:

"74. The principles which underlie the exercise of the jurisdiction of a court in a habeas corpus petition have been reiterated in several decisions of the Court. In *Gian Devi v. Superintendent, Nari Niketan, Delhi*³¹, a three-judge Bench observed that where an individual is over eighteen years of age, no fetters could be placed on her choice on where to reside or about the person with whom she could stay:

"7. Whatever may be the date of birth of the petitioner, the fact remains that she is at present more than 18 years of age. As the petitioner is sui juris no fetters can be placed upon her choice of the person with whom she is to stay, nor can any restriction be imposed regarding the place where she should stay. The court or the relatives of the petitioner can also not substitute their opinion or preference for that of the petitioner in such a matter."

(emphasis supplied)

75. The ambit of a habeas corpus petition is to trace an individual who is stated to be missing. Once the individual appears before the court and asserts that as a major, she or he is not under illegal confinement, which the court finds to be a free expression of will, that would conclude the exercise of the jurisdiction. In *Girish v. Radhamony* a two judge Bench of this Court observed thus:

"3. In a habeas corpus petition, all that is required is to find out and produce in court the person who is stated to be missing. Once the person appeared and she stated that she had gone of her own free will, the High Court had no further jurisdiction to pass the impugned order in exercise of its writ jurisdiction under Article 226 of the Constitution."

76. In *Lata Singh v. State of U.P.*, Bench of two judges took judicial notice of the harassment, threat and violence meted out to young women and men who marry outside their caste or faith. The court observed that our society is emerging through a crucial transformational period and the court cannot remain silent upon such matters of grave concern. In the view of the court:

"17. This is a free and democratic country, and once a person becomes a major he or she can marry whosoever he/she likes. If the parents of the boy or girl do not approve of such inter-caste or inter-

religious marriage the maximum they can do is that they can cut-off social relations with the son or the daughter, but they cannot give threats or commit or instigate acts of violence and cannot harass the person who undergoes such inter-caste or inter-religious marriage. We, therefore, direct that the administration/police authorities throughout the country will see to it that if any boy or girl who is a major undergoes inter-caste or inter-religious marriage with a woman or man who is a major, the couple is not harassed by anyone nor subjected to threats or acts of violence, and anyone who gives such threats or harasses or commits acts of violence either himself or at his instigation, is taken to task by instituting criminal proceedings by the police against such persons and further stern action is taken against such persons as provided by law.”

(emphasis supplied)

77. Reiterating these principles in *Bhagwan Dass v. State (NCT OF DELHI)*, this Court adverted to the social evil of honour killings as being but a reflection of a feudal mindset which is a slur on the nation.

78. In a more recent decision of a three judge Bench in *Soni Gerry v. Gerry Douglas*, this Court dealt with a case where the daughter of the appellant and respondent, who was a major had expressed a desire to reside in Kuwait, where she was pursuing her education, with her father. This Court observed thus:

“9. She has, without any hesitation, clearly stated that she intends to go back to Kuwait to pursue her career. In such a situation, we are of the considered opinion that as a major, she is entitled to exercise her choice and freedom and the Court cannot get into the aspect whether she has been forced by the father or not. There may be ample reasons on her behalf to go back to her father in Kuwait, but we are not concerned with her reasons. What she has stated before the Court, that alone matters and that is the heart of the reasoning for this Court, which keeps all controversies at bay.

10. It needs no special emphasis to state that attaining the age of majority in an individual's life has its own significance. She/He is entitled to make her/his choice. The courts cannot, as long as the choice remains, assume the role of *parens patriae*. The daughter is entitled to enjoy her freedom as the law permits and the court should not assume the role of a super guardian being moved by any kind of sentiment of the mother or the egotism of

the father. We say so without any reservation.”

79. These principles emerge from a succession of judicial decisions. Fundamental to them is the judgment of a Constitution bench of this Court in *Kanu Sanyal v. District Magistrate, Darjeeling*.

11. The Apex Court in *Shakti Vahini v. Union of India*, (2018) 7 SCC 192 came down heavily on the perpetrators of “honour killings”, which the Court found not only horrific and barbaric but also interfering with the right to choose a life partner and the dignity of an individual. The Apex Court held as under:—

“44. The concept of liberty has to be weighed and tested on the touchstone of constitutional sensitivity, protection and the values it stands for. It is the obligation of the Constitutional Courts as the sentinel on qui vive to zealously guard the right to liberty of an individual as the dignified existence of an individual has an inseparable association with liberty. Without sustenance of liberty, subject to constitutionally valid provisions of law, the life of a person is comparable to the living dead having to endure cruelty and torture without protest and tolerate imposition of thoughts and ideas without a voice to dissent or record a disagreement. The fundamental feature of dignified existence is to assert for dignity that has the spark of divinity and the realization of choice within the parameters of law without any kind of subjugation. The purpose of laying stress on the concepts of individual dignity and choice within the framework of liberty is of paramount importance. We may clearly and emphatically state that life and liberty sans dignity and choice is a phenomenon that allows hollowness to enter into the constitutional recognition of identity of a person.

(emphasis supplied)

45. The choice of an individual is an inextricable part of dignity, for dignity cannot be thought of where there is erosion of choice. True it is, the same is bound by the principle of constitutional limitation but in the absence of such limitation, none, we mean, no one shall be permitted to interfere in the fructification of the said choice. If the right to express one's own choice is obstructed, it would be extremely difficult to think of dignity in its sanctified completeness. When two adults marry out of their volition, they choose their path; they consummate their relationship; they feel that it is their goal and they have the right to do so. And it can unequivocally be stated that they have the right and any infringement of the said right is a constitutional violation...

46. It has been argued on behalf of the “Khap Panchayats” that it is a misnomer to call them by such a name. The nomenclature is absolutely irrelevant. What is really significant is that the

assembly of certain core groups meet, summon and forcefully ensure the presence of the couple and the family members and then adjudicate and impose punishment. Their further submission is that these panchayats are committed to the spreading of awareness of permissibility of intercommunity and inter-caste marriages and they also tell the people at large how "Sapinda" and "Sagotra" marriages have no sanction of law. The propositions have been structured with immense craft and advanced with enormous zeal and enthusiasm but the fallacy behind the said proponent's is easily decipherable. The argument is founded on the premise that there are certain statutory provisions and certain judgments of this Court which prescribe the prohibitory degrees for marriages and provide certain guidelines for maintaining the sex ratio and not giving any allowance for female foeticide that is a resultant effect of sex determination which is prohibited under the Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition on Sex Selection) Act, 1994 (for short 'PCPNDT Act') (See : Voluntary Health Association of Punjab v. Union of India¹² and Voluntary Health Association of Punjab v. Union of India¹³)

47. The first argument deserves to be rejected without much discussion. Suffice it to say, the same relates to the recognition of matrimonial status. If it is prohibited in law, law shall take note of it when the courts are approached. Similarly, PCPNDT Act is a complete code. That apart, the concern of this Court in spreading awareness to sustain sex ratio is not to go for sex determination and resultantly female foeticide. It has nothing to do with the institution of marriage."

(emphasis supplied)

14. Right to choose a partner irrespective of caste, creed or religion, is inhered under right to life and personal liberty, an integral part of the Fundamental Right under Article 21 of the Constitution of India. The Apex Court in *KS Puttaswamy v. Union of India*, (2017) 10 SCC 1 while deciding the issue of right to privacy, held as under:—

298. Privacy of the individual is an essential aspect of dignity. Dignity has both an intrinsic and instrumental value. As an intrinsic value, human dignity is an entitlement or a constitutionally protected interest in itself. In its instrumental facet, dignity and freedom are inseparably inter-twined, each being a facilitative tool to achieve the other. The ability of the individual to protect a zone of privacy enables the realization of the full value of life and liberty. Liberty has a broader meaning of which privacy is a subset. All liberties may not be exercised in privacy. Yet others can be fulfilled only within a private space. Privacy enables the individual to retain the autonomy of the body and mind. The autonomy of the individual is the ability to make decisions on vital matters of concern to life. Privacy has not

been couched as an independent fundamental right. But that does not detract from the constitutional protection afforded to it, once the true nature of privacy and its relationship with those fundamental rights which are expressly protected is understood. Privacy lies across the spectrum of protected freedoms. The guarantee of equality is a guarantee against arbitrary state action. It prevents the state from discriminating between individuals. The destruction by the state of a sanctified personal space whether of the body or of the mind is violative of the guarantee against arbitrary state action. Privacy of the body entitles an individual to the integrity of the physical aspects of personhood. The intersection between one's mental integrity and privacy entitles the individual to freedom of thought, the freedom to believe in what is right, and the freedom of self-determination. When these guarantees intersect with gender, they create a private space which protects all those elements which are crucial to gender identity. The family, marriage, procreation and sexual orientation are all integral to the dignity of the individual. Above all, the privacy of the individual recognises an inviolable right to determine how freedom shall be exercised. An individual may perceive that the best form of expression is to remain silent. Silence postulates a realm of privacy. An artist finds reflection of the soul in a creative endeavour. A writer expresses the outcome of a process of thought. A musician contemplates upon notes which musically lead to silence. The silence, which lies within, reflects on the ability to choose how to convey thoughts and ideas or interact with others. These are crucial aspects of personhood. The freedoms Under Article 19 can be fulfilled where the individual is entitled to decide upon his or her preferences. Read in conjunction with Article 21, liberty enables the individual to have a choice of preferences on various facets of life including what and how one will eat, the way one will dress, the faith one will espouse and a myriad other matters on which autonomy and self-determination require a choice to be made within the privacy of the mind. The constitutional right to the freedom of religion Under Article 25 has implicit within it the ability to choose a faith and the freedom to express or not express those choices to the world. These are some illustrations of the manner in which privacy facilitates freedom and is intrinsic to the exercise of liberty. The Constitution does not contain a separate Article telling us that privacy has been declared to be a fundamental right. Nor have we tagged the provisions of Part III with an alpha suffixed right of privacy : this is not an act of judicial redrafting. Dignity cannot exist without privacy. Both reside within the inalienable values of life, liberty and freedom which the Constitution has recognised. Privacy is the ultimate expression of the sanctity of the individual. It is a constitutional value which straddles across the spectrum of fundamental rights and protects for the individual a zone of choice and self-determination.

(emphasis supplied)

299. Privacy represents the core of the human personality and recognises the ability of each individual to make choices and to take decisions governing matters intimate and personal. Yet, it is necessary to acknowledge that individuals live in communities and work in communities. Their personalities affect and, in turn are shaped by their social environment. The individual is not a hermit. The lives of individuals are as much a social phenomenon. In their interactions with others, individuals are constantly engaged in behavioural patterns and in relationships impacting on the rest of society. Equally, the life of the individual is being consistently shaped by cultural and social values imbibed from living in the community.

(emphasis supplied)

323. Privacy includes at its core the preservation of personal intimacies, the sanctity of family life, marriage, procreation, the home and sexual orientation. Privacy also connotes a right to be left alone. Privacy safeguards individual autonomy and recognises the ability of the individual to control vital aspects of his or her life. Personal choices governing a way of life are intrinsic to privacy. Privacy protects heterogeneity and recognises the plurality and diversity of our culture. While the legitimate expectation of privacy may vary from the intimate zone to the private zone and from the private to the public arenas, it is important to underscore that privacy is not lost or surrendered merely because the individual is in a public place. Privacy attaches to the person since it is an essential facet of the dignity of the human being;

(emphasis supplied)

Further, after going through Annexure-2 i.e. the Certificate Of Marriage under Special Marriage Act, 1954 issued by ADM & Collector, West Tripura District, it appears that their marriage under Special Marriage Act was solemnized in the year 2011 and since then, the informant and the accused-applicant are residing together as husband and wife having cohabitation with each other and out of their marital bondage two issues were also born. It is submitted that since 2011 i.e. from the date of their marriage till the filing of F.I.R. nobody challenged their marriage. Even, the family members of the informant did not challenge their marriage to any other forum. No documentary evidence

countering the same has also been submitted by the prosecution before this Court. Regarding Annexure-3 and Annexure-4 i.e. subsequent F.I.R. laid by the informant on 10.11.2025 to O/C, R.K. Pur Women PS and the communication to the Superintendent of Police, Udaipur, Gomati District through registered AD post, nothing was submitted by the prosecution at the time of hearing before this Court narrating as to the steps taken in this regard.

The informant-cum alleged victim is an adult and aged about 39 years. Before this Court also she did not divulge anything against the accused-applicant supporting the prosecution story. Rather she stated that under compelling circumstances she had to make the statement to the police and to the Court against the accused-applicant.

Even, if we assume that the prosecution story is *prima facie* correct in that case also there is no scope to disbelieve Annexure-2 i.e. the Certificate of Marriage issued by ADM & Collector, West Tripura District and in this regard, to counter the same, nothing was submitted by the prosecution. Further, as already stated, during that long period of their conjugal life no case was filed challenging their marriage to any forum and at this stage, there is no evidence on record in this regard before this Court. So, considering all, after hearing both the parties and also perusing the citation of the High Court of Allahabad, it appears to this Court that the present accused-applicant is entitled to get the concession of pre-arrest bail.

Accordingly, it is ordered that in the event of arrest the accused-applicant may be released on bail on his execution of bail 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 and shall co-operate with the investigation of this case.
- (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.

In case of violation of the conditions of bail, the I.O. shall be at liberty to approach for cancellation of bail to the concerned jurisdictional Magistrate. However, if in course of investigation it transpires to the I.O. that the prosecution story is correct and the life of the victim is at stake then, the I.O. shall be at liberty to make necessary arrangement for keeping the victim and her children, if any, to a protective/shelter home of the Government till completion of investigation/trial of this case subject to the order of Learned Jurisdictional Magistrate.

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 I.O. through Learned Addl. P.P. along with a copy of this order. A copy of this order also be supplied free of cost to the Learned Senior counsel for the accused-applicant for information and compliance.

JUDGE

Snigdha