

**HIGH COURT OF TRIPURA
AGARTALA**

B.A. No.91 of 2024

Jamal Hossain
Son of Late Muslim Miah of Asha Bari,
Bakshanagar, P.S. Kalamchowra,
District- Sepahijala, PIN-799102

----- Petitioner

on behalf of Sri Saraf Hossain @ Uddin
S/O Jamal hossain
Resident of SDO Chowmuhan, Nandannagar,
P.S. – N.C.C & P.O.-Bankumari,
District-West Tripura, Agartala.

----- Accused Petitioner

Versus

1. The State of Tripura
Represented by the Secretary
To the Home Department
New Secretariat, P.S.-N.C.C.
P.O.-Kunjaban, District-West Tripura.
2. Md. Babul Miah
S/O Lt. Nurul Islam
Resident Bakshanagar, (Puranbari)
P.S. Kalamchowra,
District-Sepahijala, Pin-799102

-----Respondent(s)

For Applicant(s)	:	Mr. D. Bhattacharya, Sr. Adv, Mr. Soumyadeep Saha, Adv, Mr. Samar Das, Adv.
For Respondent(s)	:	Mr. Raju Datta, P.P.

HON'BLE MR. JUSTICE BISWAJIT PALIT

Order

13/01/2025

Learned Senior Counsel, Mr. D. Bhattacharya assisted by
Learned Counsel, Mr. Samar Das and Learned Counsel, Mr.
Soumyadeep Saha is present for the accused-in-custody. Learned
P.P., Mr. Raju Datta is present on behalf of the State-respondent.

As ordered earlier, Learned P.P. has produced the Case Diary
and we have already received the record from the concerned
Learned Jurisdictional Magistrate.

Taking part in the hearing, Learned Senior Counsel first of all
drawn the attention of the Court that in this case admittedly the

victim is minor but she had love affair with the accused-in-custody for which the accused and the victim got married with each other and by this time, she delivered one issue on 30.12.2023.

Learned Senior Counsel further submitted that although the case was registered but the victim gave statement before the Court and on the basis of the FIR, although the victim was recovered from the residence of the accused but later on she again left her parental residence and presently she is staying at her matrimonial home and the present accused is lodging in custody on and from 07.11.2024.

So, considering the period of detention of the accused-in-custody and considering the facts and circumstances of the present case, Learned Senior Counsel drawn the attention of the Court to release the accused on bail in any condition.

It was further submitted that the *de-facto* complainant although submitted one affidavit before the Learned Trial Court below that the subject matter of dispute was amicably settled amongst them outside the Court. So, in considering the bail application, Learned Senior Counsel urged for taking into consideration the said affidavit sworn by the *de-facto* complainant in this case.

On the other hand, Learned P.P. strongly opposed the bail application and submitted that the victim is minor, so at this stage his bail application may be rejected.

Considered.

In this case, the prosecution was set into motion on the basis of an FIR laid by the informant Babul Miah alleging inter alia that on 24.05.2023 night at about 22:30 hours the minor daughter of the complainant Babul Miah went out for natural call,

that time, the accused persons entered into the dwelling house of the informant/complainant and kidnapped his minor daughter by pressing her mouth and fled away from the spot by one Maruti Van bearing registration No.TR07E-0389 and on the same night at about 23:30 hours the victim girl called her mother and disclosed the matter of kidnapping. The victim also disclosed that after kidnapping the FIR named accused person first took her into the house of the FIR named accused at serial No.2 namely Jamal Hossain and then they shifted her into another place and the accused serial No.1 as mentioned in the complaint petition namely Saraf uddin forcefully married the minor daughter of the complainant. On the basis of the complaint, Kalamchowra P.S. case No.90/2023 under Section 342/366(A)/34 of IPC was registered.

I have heard both the sides at length and gone through the records of the Learned Jurisdictional Magistrate as well as the Case Diary produced by Learned P.P. It is on record that during investigation, the victim was produced before the Court for recording her statement under Section 164(5) of Cr.P.C. and this accused-in-custody has been arrested and produced before the Court on 07.11.2024 and since then he is lodging in custody. It is also on record that in course of investigation the *de-facto* complainant submitted one photocopy of affidavit before the Court, although on the said affidavit being called for by the Learned Jurisdictional Magistrate, the IO could not give any specific account of that. It is also on record that the victim by this time has delivered one issue on 30.12.2023.

I have also perused the statements of witnesses so far recorded by IO up to this stage of investigation. The investigation

of this case is still in progress and from the statement of the victim, it appears that she stated before the Court that she voluntarily left with the accused and ultimately the victim and the accused-in-custody got married with each other. However, as the victim is a minor so no reliance can be placed upon the statement of the victim-girl at this stage.

However, considering the facts and circumstances of this case and also the nature of accusation and the period of detention of the accused-in-custody, the accused namely Saraf Uddin may be released on bail of his execution of bond of Rs.50,000/- with one surety of like amount to the satisfaction of Learned Jurisdictional Magistrate on condition that he shall attend IO once in a week till completion of investigation, nor he shall make any attempt to tamper evidence of the prosecution and the accused shall not leave the jurisdiction of the Court without prior permission of the Court i.d. to remain in JC as before.

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

Further, a copy of this order also be communicated to the Learned Court below in course of the day.

Also, send down the Case Diary to the IO through Learned P.P. along with a copy of this order.

Also, a copy of this order be furnished to Learned Senior Counsel, Mr. D. Bhattacharya representing the accused-in-custody for information and necessary action.

With this observation, the bail application is disposed of.

JUDGE