

THE HIGH COURT OF SIKKIM: GANGTOK
(Criminal Jurisdiction)

SINGLE BENCH: THE HON'BLE MR. JUSTICE A. MUHAMED MUSTAQUE, CHIEF JUSTICE

BAIL APPL No.2 OF 2026

Jasiel Sething Subba

Aged about 23 years,
Son of Shri Anil Subba
Resident of Lower Bhutia Busty, Puldara
Darjeeling, West Bengal, India,
Phone No. 9002308376
Pin Code : 734101

... Petitioner

versus

1. State of Sikkim

2. *Ms.'.....',
Through,
R/o.....

... Respondents

***Impleaded in terms of order dated 12.05.2026.**

Appearance:

Ms. Gita Bista, Ms. Pratikcha Gurung and Mr.
Dipendra Chettri, Advocates for the Petitioner.

Mr. Yadev Sharma, Additional Public Prosecutor for Respondent
No.1.

Ms. Zola Megi, Legal Aid Counsel for Respondent No.2.

Date of Hearing : 25.05.2026
Date of Judgment : 26.05.2026
Date on which uploaded : 26.05.2026

J U D G M E N T

(A. Muhamed Mustaque, C.J.)

This is an application seeking Anticipatory Bail under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023. The application moved before the learned Sessions Judge at Gangtok was rejected *vide* order dated 04.05.2026. It is thereafter that the Petitioner moved before this Court. In this present proceeding, all parties have been heard by this Court.

[2] The offences alleged against the Petitioner are under Sections 126, 127, 129, 130 and 64 of Bharatiya Nyaya Sanhita, 2023 (hereinafter the BNS), pursuant to the case registered at Sadar Police Station, Gangtok dated 10.04.2026. All the offences are bailable except one coming under section 64 of BNS, 2023.

[3] This Court ordered the impleadment of the *de facto* complainant. She was also provided with the Legal Aid Counsel for the proceedings.

[4] The *de facto* complainant and Petitioner were in a relationship for a long period. As stated by the learned Additional Public Prosecutor the relationship came to an end on 16.10.2025, when she discovered that the Petitioner was involved in another intimate relationship. It is further submitted that, on 14.03.2026, she filed a complaint before the Ranipool Police Station alleging harassment by the Petitioner.

[5] There was also a compromise between the Petitioner and *de facto* complainant. A compromise was given to the hostel warden on 21.03.2026, after the Ranipool complaint that they will not have any contact. In the compromise, *de facto* complainant declared that she had parted with the Petitioner that she would return the smartphone given by the Petitioner and that she would not call the Petitioner or his parents.

[6] The present crime has been registered on the basis of the FIR dated 10.04.2026, registered at Sadar Police Station, Gangtok. It is alleged in the complaint that the accused committed sexual assault and criminal intimidation.

[7] It is specifically averred in the present complaint that on 21.03.2026, the Petitioner took the *de facto* complainant's mobile phone, forcibly took her to a hotel beyond Vajra Mall and inside the hotel, forced himself on her and physically and sexually assaulted her. It is to be noted that the incident occurred on 21.03.2026 and she reported the same to police on 10.04.2026.

[8] The learned Additional Public Prosecutor placed some medical records before this Court. It is seen that after the *de facto* complainant raised a complaint before the Ranipool Police Station on 14.03.2026, she was undergoing treatment for depression at Central Referral Hospital, Gangtok, Sikkim. She was treated on 14.04.2026 and was thereafter on a follow-up treatment.

[9] The question presently before this Court is whether custodial interrogation is necessary. The circumstances show a strained

relationship arising out of a prior love affair. Except for generally stating that the Petitioner committed sexual assault and exerted force, the complaint dated 10.04.2026 does not set out any specific overt act attributable to the Petitioner in detail. These are matters which are subject to investigation.

[10] This Court cannot doubt the veracity of the complaint at this stage however, at the same time the Court has to safeguard the liberty of the Petitioner while taking note of the nature of the complaint. Taking into consideration all the circumstances of the case, this Court is of the view that the Petitioner can be enlarged on bail, if arrested, on the following terms and conditions:

- (i) The Petitioner shall appear before the Investigation Officer within one week from today.
- (ii) On such appearance, he shall be released on bail, if arrested, on executing a personal bond for a sum of Rs.1,00,000 (Rupees one lakh) and by producing two solvent sureties, who shall also execute a bond for a like amount.
- (iii) The Petitioner shall not leave India without obtaining prior permission from this Court during the pendency of the investigation and until the final report is submitted.
- (iv) The Petitioner shall not intimidate or contact the *de facto* complainant nor shall he contact any witnesses.
- (v) The Petitioner shall also ensure that his parents do not contact or intimidate the complainant.

(vi) The Petitioner shall appear before the Investigating Officer, as and when directed.

[11] Accordingly, ***Bail Application No. 2 of 2026***, stands disposed of.

Chief Justice

Approved for Reporting : Yes/~~No~~

ak/arc