



TRHC010006912026

2026:THC:628

HIGH COURT OF TRIPURA

AGARTALA

BA 85 OF 2026

Smt. Chaitanya Rani Jamatia,
W/o Sri Nishikanta Debbarma,
Resident of Thanda Chhara, Purba Khupilong,
P.S.-Killa, District-Gomati Tripura.

---Applicant-petitioner(s)

On behalf of -

Shri Shibu Debbarma,
S/o Sri Nishikanta Debbarma,
Resident of Thanda Chhara, Purba Khupilong,
P.S.-Killa, District-Gomati Tripura.

... Accused person

Versus

The State of Tripura, represented by the Secretary to the
Department of Home, New Secretariat Complex,
Agartala, West Tripura.

--- Respondent.

For the Applicant-petitioner(s) : Mr. Samar Das, Advocate.
Mr. Agniva Chakraborty, Advocate.

For the Respondent(s) : Mr. Raju Datta, P.P.

HON'BLE MR. JUSTICE S. DATTA PURKAYASTHA

ORDER

15.05.2026

Heard learned counsel of both sides.

2. The petition, under Section 483 of BNSS, is filed praying for bail of accused Shibu Debbarma in connection with Killa Police Station Case No.2025KLA016, registered under Sections 64(2)/351(2)/75/79 of BNS,2023.

3. The accused was arrested on 28.09.2025 and since then he is in custody. He is a resident of Gomati District itself as it appears from the record. The FIR lodged by the prosecutrix, a married woman, contains the allegation that on 07.04.2024, she was raped by the accused in a jungle and thereafter also on several occasions till 07.09.2025. Several times he took

photographs of the victim and also made videos of her by force and when she objected not to meet him, he made those photographs and videos viral to her relatives inviting severe problem for her.

4. Police after registration of the case, proceeded with investigation and finally laid the charge-sheet on 25.11.2025 under Sections 64(2)(m)/351(2)/75/79 of BNS,2023. At the time of submission of charge-sheet, I.O. did not file any petition seeking custody trial of the present accused, rather, after more than one month thereafter, the O.C. of the police station suddenly filed one such petition on 07.01.2026 praying for custody trial of the accused on the ground that after commission of crime, the accused fled away and if he is released on bail, it would be hard to trace him again and that he may influence the witnesses and tamper the evidences. Another ground is also shown that he is a man of ill reputation and on many occasions he has cheated other women and his wife is also residing separately from him. Learned Sessions Judge allowed the said prayer with observation that the grounds advanced by the I.O. were convincing enough. How those grounds were convincing were not further deliberated upon by the learned Sessions Judge.

5. Learned counsel for the petitioner, Mr. Samar Das submits that for about 228 days the accused is in custody, but till date not a single witness has been examined. Only a calendar is fixed for examination of witnesses. Learned counsel also raises the issue that the arrest itself was illegal as ground of arrest was very mechanically informed to the accused person in violation of Article 22(1) of the Constitution of India. Learned counsel, Mr. Das also submits that the accused is a resident of Gomati District and if he is released on bail, he will cooperate in the trial and even, he was also arrested from Killa PS within the jurisdiction of Gomati District itself.

6. Learned P.P. opposes the bail prayer, however, he could not satisfactorily show any material that the ground of arrest was communicated in an effective manner.

7. Court has considered the submissions of learned counsel of both sides.

8. Without making any comment on the merit of the case, it appears that very mechanically the arresting authority has communicated the so called ground of arrest to the accused person. The entire contents of the document containing grounds of arrest are extracted hereunder.

"GROUND OF ARREST"

[Vihaan Kumar vs. The State of Haryana-Supreme Court of India]

Case Ref:- KILLA PS Case No-2025KLA016, Dated-27-09-2025 U/S-64(2)(m)/351(2) BNS/23

1) *Details of Arrested person:- Sri Shibu Debbarma (25) S/O Sri Nishi kanta Debbarma of Thanda Chara, khupilong, PS-Killa, Udaipur, Gomati, Tripura.*

2) *Date of Arrest: 28.09.2025 at 0110hrs*

I hereby arrested the above mentioned accused person and the accused person is hereby of the grounds of arrest and is provided with the written grounds of arrest in written in compliance with the judgement of the Honourable Supreme Court of India in Vihaan Kumar vs The State of Haryana.

Grounds of Arrest :-

1. The below noted A/P is found

I have received the grounds of arrest

*Shibu Debbarma(sd/-)
Arrested Person*

*Served by
Sd/-
(28.09.25)
Arresting Officer"*

9. In **Anita Nama vs. State of Tripura & Ors., WP(Crl.) 04 of 2025** , decided on 08.07.2025, this Court referring to different decisions of the Hon'ble Supreme Court rendered in **Pankaj Bansal vs. Union of India, (2024) 7 SCC 576; Prabir Purkayastha vs. State (NCT of Delhi), (2024) 8 SCC 254; Vihaan Kumar vs. State of Haryana & Anr., 2025 SCC OnLine SC 269; Kasi Reddy Upender Reddy vs. State of Andhra Pradesh & Ors.,Criminal Appeal No.2808 of 2025** and **Ashish Kakkar vs. Union Territory of Chandigarh, Criminal Appeal No.1518 of 2025** held that ground of arrest should be communicated to the arrested person in writing and if the arrested person alleges non-compliance with the requirements of Article 22(1), the burden will always be on the Investigating Officer/Agency to prove compliance with the requirement of Article 22(1) and the arresting

authority shall have to show that ground of arrest containing basic facts constituting the grounds were communicated to the arrested person effectively in the language which he understands and method of communication was such that constitutional object was safeguarded. But, as it appears, it is now being settled position of law that ground of arrest should be effectively communicated to the arrested person, the arresting officer has very mechanically complied with such constitutional obligation without having least respect to the personal liberty of a person.

10. The SP, Gomati District is, therefore, directed to ensure that the constitutional mandate under Article 22(1) is complied scrupulously in terms of several decisions of the Hon'ble Supreme Court and also of this Court. The SP, Gomati will also enquire into the matter as to why the arresting officer has failed to comply such constitutional mandate. As the arrest itself in this case has become illegal and moreover, for a long period the accused is in custody, the Court has no hesitation to allow the bail application.

11. Accordingly, it is ordered that the accused **Shibu Debbarma** may go on bail on furnishing a bond of **Rs.50,000/- (Rupees fifty thousand)** only with one surety of like amount to the satisfaction of learned Additional Sessions Judge, Gomati District on condition that he will not try to make any contact with or influence or terrorize any witness directly or indirectly and will regularly attend the Court to face trial.

12. With the aforesaid observations, the bail application is, accordingly, disposed of.

13. Send a copy of this order to the SP, Gomati District for compliance.

14. Return the L.C. records along with a copy of this order to the learned Addl. Sessions Judge, Gomati District.

JUDGE