

**HIGH COURT OF TRIPURA
AGARTALA**

Crl. Petn. No.66 of 2025

Shri Sandip Khanna, aged about 38 years,
S/O Madal Lal, resident of Kallapur, Gujjar,
P.O. Rampur, Maniharan,
District-Saharanpur, Uttar Pradesh, India;
*Presently serving in the Frontier Head Quarters of Border
Security Force, Bagma, Gomati, at Inspector Engineering
Branch.*

....Petitioner(s).

Versus

- 1. The State of Tripura,**
Represented by the Secretary, Department of Home,
Civil Secretariat, P.O. Civil Secretariat- 799010,
P.S. New Capital Complex, District-West Tripura;
- 2. The Director General of Police,**
Police Headquarter, Agartala, West Tripura;
- 3. Smt. Stihiti Debbarma,**
D/O Late Kamal Debbarma,
Resident of Anandapur, Belonia,
P.S.-P.R. Bari, District- Gomati, Tripura,
*Presently residing under C/o Ratan Ghosh of Barabhaiya,
Bagma, P.S. RK Pur, District- Gomati, Tripura.*

.....Respondents.

For Petitioner(s) : Mr. Agniva Chakraborty, Adv.

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

Date of Hearing : 19.02.2026

Date of delivery of
Judgment and Order : 25.02.2026

Whether fit for
Reporting : YES

HON'BLE MR. JUSTICE BISWAJIT PALIT

Judgment & Order

This petition under Section 482 of Cr.P.C. corresponding to Section 528 of BNSS is filed for setting aside the order dated 21.11.2025 passed by Learned Additional Sessions Judge, Court No.5, West Tripura, Agartala in connection with Criminal (Misc) 176 of 2025. By the said order Learned Additional Sessions Judge has cancelled the bail granted to the accused-petitioner by Learned CJM, West Tripura, Agartala vide order dated 28.07.2025 passed in connection with West Agartala Women P.S. case No.38 of 2025.

02. Heard Learned Counsel, Mr. A. Chakraborty appearing on behalf of the accused-petitioner and also heard Learned P.P., Mr. R. Datta appearing on behalf of the State-respondent.

03. At the time of hearing, Learned Counsel for the accused-petitioner drawn the attention of the Court that in this case after completion of investigation the I.O. has submitted charge-sheet against the present petitioner-accused. It was further submitted by Learned Counsel that initially the case was registered under Sections 376/419/326 of IPC read with Section 3(1)(r)(s) of Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, against the accused but on

completion of investigation the I.O. did not find any material against the petitioner-accused under the ST/SC Prevention Act. So, the I.O. simply laid charge-sheet against the accused-petitioner under the relevant provisions of IPC.

It was further submitted by Learned Counsel for the petitioner-accused that in this case from the contents of the FIR it will transpire that there is no material for commission of offence punishable under Section 376 of IPC by the accused-petitioner. But it is the admitted position that both the victim and the accused developed love relation with each other but there was no deception on the part of the petitioner-accused. So, Learned CJM based upon the materials on record rightly granted interim bail, but the Learned Additional Sessions Judge in absence of any materials on record with a false pretext that after release on bail the petitioner-accused threatened the victim cancelled the bail granted to the accused in absence of materials on record and in support of his contention, Learned Counsel relied upon one citation of the Hon'ble Apex Court of India reported in **Pramod Suryabhan Pawar vs. State of Maharashtra & Anr.** reported in **(2019) 9 SCC 608**, wherein in para Nos.18, 21 and 23, Hon'ble the Apex Court observed as under:

"18. To summarise the legal position that emerges from the above cases, the "consent" of a woman with respect to Section 375 must involve an active and reasoned deliberation towards the proposed act. To establish

whether the "consent" was vitiated by a "misconception of fact" arising out of a promise to marry, two propositions must be established. The promise of marriage must have been a false promise, given in bad faith and with no intention of being adhered to at the time it was given. The false promise itself must be of immediate relevance, or bear a direct nexus to the woman's decision to engage in the sexual act.

21. The allegations in the FIR do not on their face indicate that the promise by the appellant was false, or that the complainant engaged in sexual relations on the basis of this promise. There is no allegation in the FIR that when the appellant promised to marry the complainant, it was done in bad faith or with the intention to deceive her. The appellant's failure in 2016 to fulfil his promise made in 2008 cannot be construed to mean the promise itself was false. The allegations in the FIR indicate that the complainant was aware that there existed obstacles to marrying the appellant since 2008, and that she and the appellant continued to engage in sexual relations long after their getting married had become a disputed matter. Even thereafter, the complainant travelled to visit and reside with the appellant at his postings and allowed him to spend his weekends at her residence. The allegations in the FIR belie the case that she was deceived by the appellant's promise of marriage. Therefore, even if the facts set out in the complainant's statements are accepted in totality, no offence under Section 375 IPC has occurred.

23. Without entering into a detailed analysis of the content of the WhatsApp messages sent by the appellant and the words alleged to have been spoken, it is apparent that none of the offences set out above are made out. The messages were not in public view, no assault occurred, nor was the appellant in such a position so as to dominate the will of the complainant. Therefore, even if the allegations set out by the complainant with respect to the WhatsApp messages and words uttered are accepted on their face, no offence is made out under the SC/ST Act (as it then stood). The allegations on the face of the FIR do not hence establish the commission of the offences alleged."

Referring the same, Learned Counsel submitted that in view of the observation made by the Hon'ble Apex Court in the aforementioned case, in absence of any cogent evidence on record, the order passed by the Court of Learned Additional

Sessions Judge cannot sustained in the eye of law and as such he prayed for setting aside the order passed by Learned Additional Sessions Judge. It was also submitted that since by this time charge-sheet is submitted and the accused is a government servant, so, a scope may be given to the accused to conduct his defence properly.

Learned Counsel further submitted that by this time a talk of compromise/negotiation is going on amongst the rival parties and in this regard, the defecto-complaint in her affidavit-in-opposition in para No.6 has specifically asserted that the parties are trying to mitigate the disputes. Learned Counsel in support of his contention also relied upon another citation of the Hon'ble Apex Court reported in **Prahlad Singh Bhati vs. NCT, Delhi & Anr.** reported in **(2001) 4 SCC 280**, wherein in para No.6, Hon'ble the Apex Court observed as under:

"6. Even though there is no legal bar for a Magistrate to consider an application for grant of bail to a person who is arrested for an offence exclusively triable by a Court of Session yet it would be proper and appropriate that in such a case the Magistrate directs the accused person to approach the Court of Session for the purposes of getting the relief of bail. Even in a case where any Magistrate opts to make an adventure of exercising the powers under Section 437 of the Code in respect of a person who is suspected of the commission of such an offence, arrested and detained in that connection, such Magistrate has to specifically negate the existence of reasonable ground for believing that such an accused is guilty of an offence punishable with the sentence of death or imprisonment for life. In a case where the Magistrate has no occasion and in fact does not find, that there were no reasonable

grounds to believe that the accused had not committed the offence punishable with death or imprisonment for life, he shall be deemed to be having no jurisdiction to enlarge the accused on bail."

Referring the same, Learned Counsel submitted that considering the facts and circumstances of the case, there was no bar on the part of Learned CJM to consider bail to the accused. So, the order passed by Learned CJM was rational and justified which has been wrongly set aside by the Learned Additional Sessions Judge, Court No.5 by the said impugned order dated 21.11.2025. So, Learned Counsel, Mr. Chakraborty in conclusion of his submission submitted that considering the facts and circumstances of the case and the materials on record since there is no evidence of commission of offence punishable under Section 376 of IPC by the petitioner and as such the order of the Learned Additional Sessions Judge cannot be sustained, so, Learned Counsel urged for setting aside the order and to allow the accused-petitioner to remain on bail to enable him to conduct his defence properly. Some more other citations of different High Courts were also referred by the Learned Counsel for the petitioner at the time of hearing.

04. On the other hand, Learned P.P. appearing on behalf of the State-respondent submitted that in a case of this nature there was no scope on the part of the Magistrate to grant bail to the accused but Learned CJM committed error in granting bail to the accused-petitioner. It was further

submitted that the case was initially the case was registered under Section 376/419/326 of IPC read with Section 3(1)(r)(s) of Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act and when Learned CJM heard the bail matter that time no charge-sheet was submitted. Even at the time of hearing, before the Court of Learned Additional Sessions Judge, charge-sheet was not submitted by I.O. to the Court. Furthermore, according to Learned P.P. in view of Sub-section 3 of Section 15(A) there was no scope on the part of Learned CJM to grant bail to the accused without hearing to the victim. For the sake of convenience, let us mention herein below relevant provision of Sub-section 3 of Section 15(A) which provides as under:

“(3) A victim or his dependent shall have the right to reasonable, accurate, and timely notice of any Court proceeding including any bail proceeding and the Special Public Prosecutor or the State Government shall inform the victim about any proceedings under this Act.”

From the aforesaid provision, it appears that a victim or his dependent shall have arrayed to reasonable, accurate, and timely notice of any Court proceeding including any bail proceeding and the Special Public Prosecutor or the State Government shall inform the victim about any proceedings under that Act.

05. Here, there is no materials on record from the side of the prosecution that the aforesaid provision has been

complied with by the Special Public Prosecutor even there is nothing on record to show that Learned CJM has made any communication to the victim at the time of hearing of bail matters. Learned P.P. further in support of his contention also relied upon one citation of the Hon'ble Supreme Court reported in **Hariram Bhambhi vs. Satyanarayan & Anr.** reported in **(2021) SCC OnLine SC 1010**, wherein in para Nos.14, 15 and 17, Hon'ble the Apex Court observed as under:

"14. Section 15-A of the SC/ST Act contains important provisions that safeguard the rights of the victims of caste-based atrocities and witnesses. Sub-sections (3) and (5) of Section 15-A specifically make the victim or their dependent an active stakeholder in the criminal proceedings. These provisions enable a member of the marginalised caste to effectively pursue a case and counteract the effects of defective investigations. Sub-sections (1) to (5) of Section 15-A are extracted below:

"15-A. Rights of victims and witnesses.—

(1) It shall be the duty and responsibility of the State to make arrangements for the protection of victims, their dependents, and witnesses against any kind of intimidation or coercion or inducement or violence or threats of violence.

(2) A victim shall be treated with fairness, respect and dignity and with due regard to any special need that arises because of the victim's age or gender or educational disadvantage or poverty.

(3) A victim or his dependent shall have the right to reasonable, accurate, and timely notice of any court proceeding including any bail proceeding and the Special Public Prosecutor or the State Government shall inform the victim about any proceedings under this Act.

(4) A victim or his dependent shall have the right to apply to the Special Court or the Exclusive Special Court, as the case may be, to summon parties for production of any documents or material,

witnesses or examine the persons present.

(5) A victim or his dependent shall be entitled to be heard at any proceeding under this Act in respect of bail, discharge, release, parole, conviction or sentence of an accused or any connected proceedings or arguments and file written submission on conviction, acquittal or sentencing.”

(emphasis supplied)

15. Sub-section (3) of Section 15-A confers a statutory right on the victim or their dependents to reasonable, accurate, and timely notice of any court proceeding including a bail proceeding. In addition, sub-section (3) requires a Special Public Prosecutor or the State Government to inform the victim about any proceeding under the Act. Sub-section (3) confers a right to a prior notice, this being evident from the use of the expression “reasonable, accurate, and timely notice of any court proceeding including any bail proceeding”. Sub-section (5) provides for a right to be heard to the victim or to a dependent. The expression “dependent” is defined in Section 2(bb) thus:

“2. (bb) “dependent” means the spouse, children, parents, brother and sister of the victim, who are dependent wholly or mainly on such victim for his support and maintenance;”

The provisions of sub-section (3) which stipulate the requirement of notice and of sub-section (5) which confers a right to be heard must be construed harmoniously. The requirement of issuing a notice facilitates the right to be heard.

17. The Gujarat High Court in Hemal Ashwin Jain v. Union of India [Hemal Ashwin Jain v. Union of India, 2020 SCC OnLine Guj 3285] , observed that : (SCC OnLine Guj, paras 38, 54 & 62)

“38. The victims, even today, have no semblance of rights at the investigation stage and a feeble position at the trial stage of a criminal prosecution.

54. We are also not impressed by the argument of Mr Popat that Section 15-A(3) of the Amendment Act should be construed as directory and not mandatory. As is evident from a plain reading of the section quoted above, the victim must be served with notice of the bail application and must be provided an opportunity to be heard and advance argument. When a statute specifically

provides a right to the victim/dependent to be heard at any proceedings in respect of bail, and if the court fails to provide such opportunity, then there is an inherent failure of justice. This procedure, in our opinion, cannot be bypassed. The non-compliance of the provision of Section 15-A(3) of the Amendment Act would render an order null and void. If Section 15-A(3) of the Amendment Act is to be construed as directory, then the very object and purpose with which such provision is enacted would got frustrated."

62. In such circumstances referred to above, we hold that Section 15-A(3) of the Amendment Act is mandatory and not directory."

(emphasis supplied)"

Referring the aforesaid observation, Learned P.P. submitted that it was mandatory on the part of Learned CJM to inform the victim which he failed to do so and as such the order granting interim bail to the accused suffers from infirmity and needs to be interfered with. Learned P.P. thereafter referred another citation of the Hon'ble Apex Court of India reported in **Jagjeet Singh & Ors. vs. Ashish Mishra alias Monu & Anr.** reported in **(2022) 9 SCC 321**, wherein in para Nos.14.1, 26 and 27, Hon'ble the Apex Court observed as under:

"14.1. (A) Whether a "victim" as defined under Section 2(wa) of the Criminal Procedure Code, 1973 (hereinafter "CrPC") is entitled to be heard at the stage of adjudication of bail application of an accused?

26. We, therefore, answer Question (A) in the affirmative, and hold that in the present case, the "victim" have been denied a fair and effective hearing at the time of granting bail to the respondent-accused."

Referring the same, Learned P.P. also submitted that since considering the nature and gravity of the offence, no personal hearing was given to the victim, so, the victim has been prejudiced. So, according to Learned P.P., the order of Learned CJM needs to be interfered with.

Finally, Learned P.P. also drawn the attention of the Court referring the order of Learned Additional Sessions Judge that at the time of hearing, Learned Additional Sessions Judge had given anxious hearing to both the parties and after detailed hearing the order of Learned CJM was interfered with and there was no infirmity to that order and as such there is no scope to interfere with the order passed by Learned Additional Sessions Judge and urged for dismissal of the petition filed by the petitioner.

Learned P.P. further submitted that after release on bail the petitioner-accused threatened the victim with dire consequences and it was also informed that the petitioner-accused tried to influence the witnesses and also threatened the victim to withdraw the case paying some money failing which her life would be at stake and in this regard, a G.D. entry was made at R.K. Pur Women P.S., vide G.D. entry No.26 dated 26.08.2025. So, finally, Learned P.P. drawn the attention of the Court to uphold the order passed by Learned Additional Sessions Judge.

06. In this case notice was served upon the victim. The victim appeared through her Counsel and submitted one affidavit narrating the prosecution story but in para No.6 it was specifically stated that both the parties are trying to mitigate the matter with the help of their near relatives.

07. In the case at hand the fact of the prosecution was in short is that the petitioner-accused is a BSF personal having been posted as Inspector Works in the Engineering Branch of Frontier Headquarter BSF, Tripura, Campus-Shalbagan and in the month of November, 2023 the petitioner-accused came in contact with the victim and started conversation with each other when the respondent represented him as a bachelor. Ultimately, they developed friendly terms and started talking to each other over phone which turned into a love relationship. In the month of January, the respondent-accused met with the complainant-victim in her native house at Belonia and proposed to maintain living relation which she refused. Thereafter, in the month of February 2024, the respondent-accused took the victim to Kasba where he put Vermilion on her forehead and made her believed that the victim is his wife and convinced her to have relation with him and thereafter, took her in a rented house at Banerjee Para and started residing with her as husband and wife. In April 2024, the victim came to know that the petitioner is already married having two children and being asked the petitioner stated that he has got

no good relation with his wife and would divorce her. After that in the month of November, 2024 the petitioner took the victim in another rented house at Durjoynagar and started residing therein as husband and wife. Even, thereafter, the petitioner did not take any step to divorce his wife and that time the victim could realized that she has been deceived by the petitioner and later on, the petitioner refused to marry her and also assaulted her for which she sustained injuries and ultimately, on 20.07.2025 the petitioner-accused left her company and since then he did not make any contact with the victim. After that on 26.07.2025 the victim laid the complaint.

This is the sum and substance of the prosecution case.

08. I have heard the parties at length and perused the relevant prosecution papers and also the order passed by Learned Additional Sessions Judge, Court No.5 which is challenged before this Court. From the order of the Learned Additional Sessions Judge, it appears that Learned Additional Sessions Judge at the time of passing the order came to the observation that the Learned CJM at the time of passing of order came to the observation that Section 376 of IPC would not attract in the case at hand during the nascent stage of investigation which was/is not permissible in the eye of law. Even in a case trial by the Court of Sessions, there is very least

scope on the part of the Magistrate to grant bail to a person who is arrested for an offence exclusively triable by the Court of Sessions. Even, Section 437 of Cr.P.C. put some restrictions to the Magistrate to consider bail and in that case the Magistrate has to specifically negate the existence of reasonable ground for believing that such an accused is guilty of an offence punishable with sentence of death or imprisonment of life. Furthermore, powers of the Magistrate while dealing with the application for grant of bail are regulated by the punishment prescribed for the offence in which the bail is sought. Generally speaking, if, punishment is prescribed for imprisonment of life or death penalty and the offence is exclusively triable by the Court of Sessions, the Magistrate has no jurisdiction to grant bail unless the matter is covered by the provision attached to the Section 437 of Cr.P.C.

09. Situated thus, it appears to this Court that there was no infirmity to the order passed by Learned Additional Sessions Judge, Court No.5, West Tripura, Agartala regarding cancellation of bail granted to the accused and furthermore, Section 15 (A) (C) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1985 puts a restriction to a Court to hear the victim which Learned CJM has failed to exercise at the time of consideration of the bail application on the ground that accused was S.C. In this regard, the Learned Court ought to have called for the report from I.O. which he failed.

10. In view of the above, after hearing both the sides and considering the materials on record, I do not find any irregularity in the order passed by Learned Additional Sessions Judge Court No.5 in regard to cancellation of bail granted to the accused, vide order dated 21.11.2025 passed by Learned Additional Sessions Judge, Court No.5, West Tripura, Agartala in connection with Criminal (Misc) 176 of 2025.

So, considering all, the application filed under Section 482 of Cr.P.C. stands cancelled. The order dated 21.11.2025 passed by Learned Additional Sessions Judge, Court No.5 is hereby upheld and affirmed. The petitioner-accused is to surrender before the Court of Learned CJM, West Tripura, Agartala on or before 06.03.2026. The interim order dated 03.12.2025 passed by this Court thus stands vacated accordingly. Further, it is ordered that since the victim in her affidavit-in-opposition specifically stated that a talk of compromise is going on amongst the rival parties, so, it will be always open for the parties to approach for bail to the Court of the Jurisdictional Magistrate narrating the present facts and circumstances of the case and in that event, the Leaned Jurisdictional Magistrate shall consider to dispose of the matter in view of the factual aspects of the parties without being biased by the order of this Court, so that the right of the parties is not infringed.

Learned Standing Counsel for the complainant is asked to take up the matter with the authority of the department immediately.

Send down the record to the Learned Trial Court along with a copy of this order. Also, a copy of this order be supplied to the Learned Counsel for the petitioner for information. Also, supply a copy of this order to I.O through Learned P.P.

With this observation, this present petition stands disposed of on contest.

Pending application(s), if any, also stands disposed of.

JUDGE

Purnita

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