
(2025) 08 TP CK 0512
In the Tripura High Court
Case No : Anticipatory Bail No. 61 Of 2025

Biswanath Deb And Ors

APPELLANT

Vs

State Of Tripura

RESPONDENT

Date of Decision : 20-08-2025

Acts Referred:

Bharatiya Nyaya Sanhita, 2023 — Section 3(5), 80(2), 85

Citation : (2025) 08 TP CK 0512

Bench : Single Bench

Advocate : Biswajit Palit, J

Final Decision : Allowed

Judgement

Biswajit Palit, J

This pre-arrest bail application is filed by the accused-applicants for granting them bail in connection with West Agartala Women PS Case No.36 of 2025 for the offence punishable under Section 85/80(2)/3(5) of BNS.

Heard Learned Counsel Mr. Ratan Datta along with Learned Counsel Mr. A. Tilak Paul and Ms. S. Nag, Learned Counsel appearing for the accused-applicants and Mr. R. Saha, Learned Addl. P.P. appearing for the respondents.

As ordered earlier Learned Addl. P.P. has produced the CD and also we have received the record from the Learned Trial Court.

Taking part in the hearing Learned Counsel Mr. R. Datta first of all drawn the attention of the Court referring the contents of the FIR and submitted that the husband of the deceased victim has already been granted bail by the Learned J.M. 1st Class (Court No.6), Agartala, West Tripura in connection with Case No.2025 WAW 036 on 29.07.2025. The present applicants are the brother-in-law and in-laws of the deceased victim. Learned Counsel further submitted that the deceased victim stayed separately in a rented house owned by Sri Pradip Kumar Deb where the alleged occurrence took place. So there is no scope to presume

that the present accused-applicants have committed the offence. In support of his contention Learned Counsel relied upon few citations. Reliance is placed on one citation of Hon'ble Supreme Court of India in *Dara Lakshmi Narayana and Others vs. State of Telengana and Another* reported in (2025) 3 SCC 735 in para Nos.25 and 26 Hon'ble the Apex Court observed as under:

"27. A mere reference to the names of family members in a criminal case arising out of a matrimonial dispute, without specific allegations indicating their active involvement should be nipped in the bud. It is a well-recognised fact, borne out of judicial experience, that there is often a tendency to implicate all the members of the husband's family when domestic disputes arise out of a matrimonial discord. Such generalised and sweeping accusations unsupported by concrete evidence or particularised allegations cannot form the basis for criminal prosecution. Courts must exercise caution in such cases to prevent misuse of legal provisions and the legal process and avoid unnecessary harassment of innocent family members. In the present case, Appellants 2 to 6, who are the members of the family of Appellant 1 have been living in different cities and have not resided in the matrimonial house of Appellant 1 and Respondent 2 herein. Hence, they cannot be dragged into criminal prosecution and the same would be an abuse of the process of the law in the absence of specific allegations made against each of them.

28. In fact, in the instant case, the first appellant and his wife i.e. the second respondent herein resided at Jollarpeta, Tamil Nadu where he was working in Southern Railways. They were married in the year 2015 and soon thereafter in the years 2016 and 2017, the second respondent gave birth to two children. Therefore, it cannot be believed that there was any harassment for dowry during the said period or that there was any matrimonial discord. Further, the second respondent in response to the missing complaint filed by the first appellant herein on 5-10-2021 addressed a letter dated 11-11-2021 to the Deputy Superintendent of Police, Thirupathur Sub-Division requesting for closure of the said complaint as she had stated that she had left the matrimonial home on her own accord owing to a quarrel with Appellant 1 because of one Govindan with whom the second respondent was in contact over telephone for a period of ten days. She had also admitted that she would not repeat such acts in future. In the above conspectus of facts, we find that the allegations of the second respondent against the appellants herein are too far-fetched and are not believable."

Referring the same Learned Counsel drawn the attention of the Court that since in a case of this nature the family members of the husband are implicated for which Hon'ble the Supreme Court has considered the fact and observed that in such a situation there is trend to implicate the family members to the prosecution and urged for allowing the present applicants to go on bail in any condition.

He also relied upon another citation of the Hon'ble Supreme Court of India in *Appasaheb & Anr. vs. State of Maharashtra* reported in AIR 2007 Supreme Court

763 wherein in para No.9 Hon'ble the Apex Court observed as under:

9. Two essential ingredient of Section 304-B IPC, apart from others, are

(i) death of women is caused by any burns or bodily injury or occurs otherwise than under normal circumstances, and (ii) women is subjected to cruelty or harassment by her husband or any relative of her husband for, or in connection with, any demand for "dowry". The explanation appended to sub-section (1) of Section 304-B IPC says that "dowry" shall have the same meaning as in Section 2 of Dowry Prohibition Act, 1961.

Section 2 of Dowry Prohibition Act reads as under :-

"2. Definition of "dowry" - In this Act "dowry" means any property or valuable security given or agreed to be given either directly or indirectly-

(a) by one party to a marriage to the other party to the marriage; or

(b) by the parent of either party to a marriage or by any other person, to either party to the marriage or to any other person, at or before or any time after the marriage in connection with the marriage of the said parties, but does not include dowry or mahr in the case of persons to whom the Muslim Personal Law (shariat) applies.

In view of the aforesaid definition of the word "dowry" any property or valuable security should be given or agreed to be given either directly or indirectly at or before or any time after the marriage and in connection with the marriage of the said parties. Therefore, the giving or taking of property or valuable security must have some connection with the marriage of the parties and a correlation between the giving or taking of property or valuable security with the marriage of the parties is essential. Being a penal provision it has to be strictly construed. Dowry is a fairly well known social custom or practice in India. It is well settled principle of interpretation of Statute that if the Act is passed with reference to a particular trade, business or transaction and words are used which everybody conversant with that trade, business or transaction knows or understands to have a particular meaning in it, then the words are to be construed as having that particular meaning. (See *Union of India v. Garware Nylons Ltd.*, AIR (1996) SC 3509 and *Chemicals and Fibres of India v. Union of India*, AIR (1997) SC 558). A demand for money on account of some financial stringency or for meeting some urgent domestic expenses or for purchasing manure cannot be termed as a demand for dowry as the said word is normally understood. The evidence adduced by the prosecution does not, therefore, show that any demand for "dowry" as defined in Section 2 of the Dowry Prohibition Act was made by the appellants as what was allegedly asked for was some money for meeting domestic expenses and for purchasing manure. Since an essential ingredient of Section 304-B IPC viz. demand for dowry is not established, the conviction of the appellants cannot be sustained.

Further reliance has been placed in another citation of Hon'ble Supreme Court of

India in *Dolat Ram and Others vs. State of Haryana* reported in (1995) 1 SCC 349 wherein in para No.s 2 and 3 Hon'ble the Apex Court observed as under:

"2. In a case arising out of FIR No. 735 dated 8-11-1993, relating to the alleged dowry death of Smt Sunita wife of Anil Kumar, the learned Additional Sessions Judge, Rohtak granted anticipatory bail to the parents and the brother of the husband of the deceased Smt Sunita and directed that they be released on bail on their furnishing bail bonds in the sum of Rs 10,000 each with one surety each of the like amount in the event of their arrest to the satisfaction of the Arresting Officer. No bail has however been granted to the husband Anil Kumar. The State of Haryana filed a petition in the High Court of Punjab and Haryana seeking cancellation of the anticipatory bail, granted to the appellants by the Additional Sessions Judge, Rohtak on 12-11-1993. The learned Single Judge of the High Court by his order dated 8-9-1994, cancelled the bail observing:

Dowry death is a serious matter and cannot be taken so lightly. No positive finding has been recorded by the Additional Sessions Judge in his order to the effect that the respondents and the deceased were living separately. No prima facie case is made out which could justify the grant of anticipatory bail. To my view of thinking, concession of anticipatory bail granted by the Additional Sessions Judge, was totally uncalled for. The order dated 12-11-1993 is, therefore, set aside and the respondents are directed to be taken into custody."

The appellants are aggrieved of the cancellation of the anticipatory bail, granted to them. Hence this appeal.

3. It appears to us that whereas the learned Additional Sessions Judge was not justified in observing in the last paragraph of his order while granting anticipatory bail "it appears that possibly these accused-appellants have been roped in falsely", at that initial stage, when possibly the investigation was not even completed let alone, any evidence had been led at the trial, the High Court also fell in error in cancelling the anticipatory bail granted to the appellants for the reasons, which have been extracted by us above. The learned Additional Sessions Judge had noticed that even according to the statement in the FIR, the appellants were living separately from the deceased and her husband and that the factum of separate residence was also supported by the ration card. These considerations were relevant considerations for dealing with an application for grant of anticipatory bail."

Relying upon those citations Learned Counsel submitted that considering the facts and circumstances there is no scope to disallow the application for granting pre-arrest bail filed by the applicants since the victim and her husband used to reside separately and the husband of the deceased victim has already been granted bail by the Learned Trial Court.

He also relied upon one citation of this High Court in *Smt. Sova Saha and Anr. vs. The state of Tripura* in A. B. No.3 of 2023.

On the other hand, Learned Addl. P.P. countering the submission made by Learned Counsel appearing for the applicants drawn the attention of this Court that the investigation of the case is in progress and from the statements of the witnesses so far collected by I.O. up to this stage of investigation there is sufficient materials against the present petitioner-accused persons regarding their involvement with the alleged offence prior to the death of the deceased. So, at this stage Learned Addl. P.P. submitted that there is no scope to consider pre-arrest bail application filed by the present accused-applicants.

It was further submitted that as alleged by the Learned Counsel for the applicants that the victim committed suicide but since the investigation of the case is in progress. So at this stage there is no scope to form an opinion as to whether the victim has committed suicide or not or whether she has been murdered or not. So Learned Addl. P.P. urged for dismissal of the bail application filed by the applicants.

The prosecution story was set into motion on the basis of an FIR laid by one Subal Das being the father of the deceased to O/C West Agartala Police Station (Women) alleging inter alia that the marriage of her younger daughter Kajal Das was solemnized on 17.02.2020 as per Hindu Marriage rites and customs. It was further mentioned in the FIR that initially their marital relation was very peaceful but after few days the husband and in-laws of her daughter started causing physical and mental torture upon his daughter. Further, his daughter gave birth to a son who is presently aged about 10 months and a daughter who is aged about 4 years. It was further mentioned that the accused person started torturing upon his daughter on regular basis and they used to drag his daughter along with her children outside the matrimonial home and considering the matrimonial life of his daughter they gave some money on the demand of her in-laws and her husband. Even the mother-in-law of the deceased used to cause torture upon the daughter of the deceased who was aged about 4 years. After that, his grand-daughter was brought to his residence owing to the torture inflicted upon her. It was also mentioned that when his grand-daughter was hospitalized at GBP Hospital, the accused persons left the hospital leaving his grand-daughter and went to their house without treating her and finding no alternative his daughter returned back to her parental house with her children. After few days, the accused persons took his daughter to her matrimonial house giving assurance they would not cause any further assault to his daughter but on 14.07.2025 he came to know that his daughter has been found to be hanged. According to him by way of pre-planned conspiracy the accused persons killed his daughter by strangulating her and after killing her left her in the toilet room for demand of dowry. These are the sum and substances of the FIR laid by the informant.

I have heard the submissions of both the sides and perused the citations referred by Learned Counsel appearing for the applicants and also the Case Diary produced by the prosecution. On perusal of the CD it appears that by this time

the I.O. has recorded the statements of some of the witnesses and the informant as well as his family members. The I.O. also by this time has collected the P.M. examination report. It is the admitted position that the principal accused Bishal Deb was produced under arrest to the court of Learned J. M. 1st Class on 16.07.2025 and thereafter on 29.07.2025 he was released on interim bail. The present applicants are in-laws of the deceased victim and brother-in-law. On perusal of the statements of the witnesses so far recorded by I.O. up to the stage of investigation prima facie it appears to this Court that there is no dispute on record in respect of the marriage of the deceased victim with the principal accused Bishal Deb. From the statement of witnesses so far recorded it appears that there were some familial dispute amongst the rival parties of this case. It is on record that due to familial unrest at one point of time the victim left the matrimonial home and took shelter to the residence of her father. From the statement of the witnesses further it appears that the deceased victim and her husband used to reside separately wherein the alleged incident took place. Now whether the deceased committed suicide or she was killed or not, it is the matter of adjudication to be decided by the Trial Court. The informant and his family members in course of their statements made to I.O. almost reiterated the same version. However, other independent witnesses also tried to support the same version'. But surprisingly from the statements of the witnesses so far recorded by I.O. nowhere I find the specific time and date when the victim was subjected to cruelty by the alleged accused persons and also nowhere I find when the alleged money as raised by the prosecution was given to the alleged accused persons. It is also not specifically mentioned on which dates, the victim was subjected to cruelty by the accused persons. So it appears that although witnesses of the prosecution supported the story of causing physical assault upon the alleged victim by the accused persons but they could not give any specific account regarding the involvement of individual accused persons with the alleged crime. Rather it appears that all the witnesses made a confusing statement that the victim was subjected to torture by all the accused persons. However, as the investigation of this case is in progress so at this stage there is no scope to give any specific observation regarding innocence of the accused persons with the alleged crime which may be decided later on if charge-sheet is filed during trial of this case. However, considering the materials on record so far collected by the I.O. upto this stage of investigation I do not find any scope to disallow the pre-arrest bail application filed by the accused applicants.

So, considering all, after hearing both the sides it appears to this Court that this is a fit case where the concession for granting pre-arrest bail be allowed in favour of the accused applicants.

Accordingly, the accused-applicants may be released on bail in the event of their arrest of their execution of bail bond of Rs.50,000/- with one surety of like amount each, to the satisfaction of the O/C of the concerned PS with the following terms and conditions:

(i) that the accused applicants shall not leave the jurisdiction of the O/C of the concerned PS without prior permission from the O/C of the concerned PS.

(ii) that the accused applicants shall not make any attempt to tamper the evidence on record of the prosecution.

(iii) that the accused applicants shall make themselves available for interrogation before I.O. as and when called for, for the sake of investigation of this case.

In case of violation of the conditions of the bail the I.O shall be at liberty to approach to the concerned Court for dismissal/cancellation of the concession of pre-arrest bail granted to the accused applicants.

With this observation this pre-arrest bail application stands allowed and disposed of.

A copy of this order be supplied to Learned Counsel appearing for the accused-applicants for information.

Return back the CD to the I.O. through Learned Addl. P.P.

Send down the record to the Learned Trial Court along with a copy of this order.