

(2026) 02 TP CK 1734

In the Tripura High Court

Case No : Anticipatory Bail Application12 Of 2026

Boudhayan Kumar Nath & Ors

APPELLANT

Vs

State Of Tripura

RESPONDENT

Date of Decision : 23-02-2026

Acts Referred:

Bharatiya Nyaya Sanhita, 2023 — Section 3(5), 117(2), 305(a), 317(2), 324(2), 351(1)

Bharatiya Nagarik Suraksha Sanhita, 2023 — Section 35, 35(3), 482

Citation : (2026) 02 TP CK 1734

Hon'ble Judges : Dr. T. Amarnath Goud, J

Bench : Single Bench

Advocate : Pankaj Kumar Poddar, Bansuri Poddar, Varad Arun Yadav, Prity Chakma, Raju Datta

Final Decision : Disposed Of

Judgement

Dr. T. Amarnath Goud, J

[1] Heard Ms. B. Poddar, learned counsel appearing for the applicants. Also heard Mr. R. Datta, learned P.P. appearing for the State.

[2] That the present application U/S 482 of BNSS has been preferred before this Court seeking the grant of anticipatory bail in favour of Applicant No. 1, Master Boudhayan Kumar Nath, minor aged about 14 years, and Applicant No. 2, Sri Biplab Kumar Nath, aged about 52 years, in connection with FIR No. 2025 NCC 082 dated 09.12.2025, registered at Capital Complex Police Station, West Tripura, for the alleged offences under Sections 305(a), 324(2), 351(1), 117(2), 317(2) and 3(5) of the Bharatiya Nyaya Sanhita, 2023, apprehending arrest.

[3] In a nutshell, the prosecution case as unfolded from the FIR, is that, the complainant Smt. Seba Mukharjee, is the mother of the victim Sharmistha Mukharjee and the accused Sri Biplab Kumar Nath, applicant herein is the husband of the victim and the accused, Sri Boudhayan Kumar Nath, applicant

herein is the son of the victim and a juvenile in conflict with law. As per the FIR version, the accused Sri Biplab Kumar Nath (A2) used to instigate his son Sri Boudhayan Kumar Nath (A1) to torture the complainant and the victim and consequent to such instigation, the accused Sri. Boudhayan Kumar Nath had subjected the complainant and the victim to physical & mental torture. It has been contend that the victim had made a GD entry at the NCC PS narrating about the persistent torture being meted out to her by the accused- Sri. Boudhayan Kumar Nath consequent upon instigation of the accused- Sri Biplab Kumar Nath. The accused- Sri. Boudhayan Kumar Nath had also broke open the victim's almirah locker and had stolen away gold ornaments & other valuables and handed over the stolen articles to the accused- Sri. Biplab Kumar Nath.

[4] It has further been alleged that on 09.12.2025 the 1st accused- Sri Boudhayan Kumar Nath surreptitiously took away the mobile phone of the victim and when she confronted him he turned violent and physically assaulted the victim. It has also been recited in the FIR that the complainant and the victim have been living under constant threat to their lives, safety & security.

[5] On 09.12.2025, the complainant Smt.Seba Mukharjee lodged the FIR with the O/C, NCC P.S against the accused-persons, applicants herein which was, accordingly, registered as NCC P.S. Case No. 2025/NCC/082 dated 09.12.2025 U/ Ss 305(a)/324(2)/351(1)/117(2)/317(2)/3(5) of Bharatiya Nyaya Sanhita, 2023 (BNS for short).

[6] Apprehending arrest in connection with the said FIR, the accused persons, applicants herein approached the Court of the learned District and Sessions Judge, West Tripura, by filing Bail Application No. 11 of 2026 seeking anticipatory bail. However, upon final hearing the parties, the learned Additional Sessions Judge, West Tripura, vide order dated 02.02.2026 rejected the prayer for anticipatory bail in respect of the applicants in the following manner:

"..... I have perused the CD including the statements of the complainant & the victim recorded by the IO u/s. 180 of BNSS and on perusal thereof I find incriminating materials against the accused-petitioner.

As already stated, the IO in his aforesaid bail objection prayer stated that the accused-petitioner Sri. Biplab Kumar Nath did not appear before the IO in terms of the notice so issued against him u/s.35(3) of BNSS and he did not co-operate with the investigation.

Having regard to the nature & gravity of the offence and taking note of the fact that the CD discloses incriminating materials against the accused-petitioner and regard being had to the fact that the accused-petitioner Sri Biplab Kumar Nath is stated to have not co-operated with the investigation, I am not inclined to grant pre-arrest bail to the said accused-petitioner.

The anticipatory bail application filed by the accused-petitioners u/s.482 of BNSS stands rejected.

Return the CD in sealed envelope to the IO along with a copy of this order.

Also, return the LC record along with a copy of this order.

The bail application, thus, stands disposed of on contest.”

[7] Being aggrieved by the aforesaid order of the Court below dated 02.02.2026, the applicants have approached this Court seeking the following reliefs:

“a) Order for release of the Applicant No.1- Sri Boudhayan Kumar Nath, minor child, in the event of arrest for the above mentioned offence;

b) Order for release of the Applicant No. 2-Biplab Kumar Nath, in the event of arrest for the above mentioned offence;

c) Pass any other order deemed fit in the interest of justice.

-AND-

In interim the applicants may be allowed to be protected by the cover of the Interim bail, to be considered by this Hon'ble Court.....”

[8] Ms. B. Poddar, learned Counsel appearing for the applicants submits that the accused-applicants are innocent and falsely implicated in this case. She further submits that the accused-applicant namely, Sri Boudhayan Kumar Nath is a minor child of 14 years of age and he had faced physical & mental trauma at the hands of both the complainant and her daughter (victim) and on 10.12.2025 he had approached the Childline 1098 & the Child Welfare Committee and made a written complaint seeking protection & support. She submits that the accused-applicant, Sri Biplab Kumar Nath has been receiving constant calls from the police who are forcing him to visit the P.S. It is also contended on behalf of the applicants that a divorce case vide No.T S (Divorce) 636 of 2025 between the complainant's daughter (victim) and the accused-applicant, Sri Biplab Kr. Nath is lying pending adjudication in the Court of Family Judge. West Tripura, Agartala and the complainant in connivance with her daughter (victim) had lodged a false & concocted FIR against the accused-applicants in order to evade the responsibility of the minor accused-applicant, Sri Boudhayan Kumar Nath since the accused-applicant, Sri Biplab Kumar Nath has, presently, no independent source of income sufficient for self maintenance or maintenance of his minor son.

[9] Ms. Poddar, learned counsel further contends that the accused- applicant, Sri Boudhayan Kumar Nath (applicant no.1) being a minor is governed by the Juvenile Justice (Care and Protection of Children) Act. She also submits that a Juvenile-in-conflict with law is also entitled to seek anticipatory bail u/s. 482 of Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS for short). It is contended that the applicant no.1 is a regular school-going student of Class IX at a reputed school at Agartala and in addition to formal schooling, he attends coaching classes at reputed institutions at Agartla. But, due to ongoing domestic disputes and the pendency of the present FIR, the applicant no.1 has already undergone severe mental stress and emotional trauma and his academic future has also

been seriously affected. She further submits that the T-II examination for class IX of will be commenced on 24.02.2026 in which the applicant No.1 has to appear in. The said examination would be ended on 17.03.2026 and in the event if the anticipatory bail is not granted in favour of the said applicant, his academic year in the said school would be jeopardized. Learned counsel, therefore, urges this Court to grant the instant anticipatory bail in favour of the applicants herein.

[10] Per contra, Mr. Raju Datta, learned P.P. appearing for the State opposes the submissions made on behalf of the applicants. He submits that the accused-applicant, Sri. Biplab Kumar Nath did not appear before the I.O. despite issuance of notice against him u/s.35(3) of Bharatiya Nagarik Suraksha Sanhita. Knowing very well that a case has been registered against him under Section 305(a)/324(2)/351(1)/117(2)/317(2)/3(5) of Bharatiya Nyaya Sanhita, the accused did never cooperate with the investigation from the beginning. He, therefore, urges this Court to dismiss the present application since the action of the accused applicant is not trustworthy.

[11] Heard the submissions made at the Bar. Perused the material evidence on record.

[12] It is seen from record that the alleged case against the applicants was registered as NCC P.S. Case No.2025/NCC/082 dated 09.12.2025 U/Ss 305(a)/324(2)/351(1)/ 117(2)/317(2)/3(5) of BNS. For better appreciation of the facts, the aforesaid sections of BNS are described herein-below in a tabular form:

Section

Offence

Punishment

Cognizable or Noncognizable

Bailable or Nonbailable

1

2

3

4

5

305(a)

Theft in any building, tent or vessel used as a human dwelling or used for the custody of property.

Imprisonment either for a term which may extend to 7 (seven) years, and shall

also be liable to fine.

Cognizable.

Non-bailable.

324(2)

Mischief.

Imprisonment for 6 months, or fine, or both.

Non-cognizable.

Bailable.

351(1)

Criminal intimidation.

Imprisonment for 2 years, or fine, or both.

Non-cognizable

Bailable

117(2)

Voluntarily causing grievous hurt.

Imprisonment for 7 years and fine.

Cognizable.

Bailable.

317(2)

Dishonestly receiving stolen property knowing it to be stolen

Imprisonment for 3 years, or fine, or both.

Cognizable.

Non-bailable.

3(5)

General explanation

[13] It reveals from record that the accused-applicant, Sri Biplab Kumar Nath did not appear before the I.O. despite issuance of notice against him u/s.35(3) of

BNSS. For the purpose of reference, the relevant contents of Section 35 of BNSS are extracted as under:

Section 35 of BNSS, 2023

"35. When police may arrest without warrant- (1) Any police officer may without an order from a Magistrate and without a warrant, arrest any person—

(a) who commits, in the presence of a police officer, a cognizable offence; or

(b) against whom a reasonable complaint has been made, or credible information has been received, or a reasonable suspicion exists that he has committed a cognizable offence punishable with imprisonment for a term which may be less than seven years or which may extend to seven years whether with or without fine, if the following conditions are satisfied, namely:—

(i) the police officer has reason to believe on the basis of such complaint, information, or suspicion that such person has committed the said offence;

(ii) the police officer is satisfied that such arrest is necessary—

(a) to prevent such person from committing any further offence; or

(b) for proper investigation of the offence; or

(c) to prevent such person from causing the evidence of the offence to disappear or tampering with such evidence in any manner; or

(d) to prevent such person from making any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to the police officer; or

(e) as unless such person is arrested, his presence in the Court whenever required cannot be ensured, and the police officer shall record while making such arrest, his reasons in writing:

Provided that a police officer shall, in all cases where the arrest of a person is not required under the provisions of this sub-section, record the reasons in writing for not making the arrest; or

(c) against whom credible information has been received that he has committed a cognizable offence punishable with imprisonment for a term which may extend to more than seven years whether with or without fine or with death sentence and the police officer has reason to believe on the basis of that information that such person has committed the said offence; or

(d) who has been proclaimed as an offender either under this Sanhita or by order of the State Government; or

(e) in whose possession anything is found which may reasonably be suspected to be stolen property and who may reasonably be suspected of having committed an offence with reference to such thing; or

(f) who obstructs a police officer while in the execution of his duty, or who has escaped, or attempts to escape, from lawful custody; or

(g) who is reasonably suspected of being a deserter from any of the Armed Forces of the Union; or

(h) who has been concerned in, or against whom a reasonable complaint has been made, or credible information has been received, or a reasonable suspicion exists, of his having been concerned in, any act committed at any place out of India which, if committed in India, would have been punishable as an offence, and for which he is, under any law relating to extradition, or otherwise, liable to be apprehended or detained in custody in India; or

(i) who, being a released convict, commits a breach of any rule made under sub-section (5) of section 394; or

(j) for whose arrest any requisition, whether written or oral, has been received from another police officer, provided that the requisition specifies the person to be arrested and the offence or other cause for which the arrest is to be made and it appears therefrom that the person might lawfully be arrested without a warrant by the officer who issued the requisition

(2) Subject to the provisions of section 39, no person concerned in a non-cognizable offence or against whom a complaint has been made or credible information has been received or reasonable suspicion exists of his having so concerned, shall be arrested except under a warrant or order of a Magistrate.

(3) The police officer shall, in all cases where the arrest of a person is not required under sub-section (1) issue a notice directing the person against whom a reasonable complaint has been made, or credible information has been received, or a reasonable suspicion exists that he has committed a cognizable offence, to appear before him or at such other place as may be specified in the notice.

(4) Where such a notice is issued to any person, it shall be the duty of that person to comply with the terms of the notice.

(5) Where such person complies and continues to comply with the notice, he shall not be arrested in respect of the offence referred to in the notice unless, for reasons to be recorded, the police officer is of the opinion that he ought to be arrested.

(6) Where such person, at any time, fails to comply with the terms of the notice or is unwilling to identify himself, the police officer may, subject to such orders as may have been passed by a competent Court in this behalf, arrest him for the offence mentioned in the notice.

(7) No arrest shall be made without prior permission of an officer not below the rank of Deputy Superintendent of Police in case of an offence which is punishable for imprisonment of less than three years and such person is infirm or is above

sixty years of age.”

[14] In view of the above, it is observed that out of the sections imposed upon the applicants for punishment of offence, two of those i.e. Section 305(a) and 317(2) are cognizable and non-bailable. It is further observed that the concerned authority had issued notice upon the applicant No.2 under Section 35 (3) of BNSS to appear and co-operate with the investigation but, he did not co-operate with the investigation. On several occasions requests were made by the applicant to grant some time causing only delay in the investigation. This Court has taken an adverse inference against the applicant No.2 since he has not come with clean hands before this Court. If this anticipatory bail application is granted to the said applicant, it will prolong the investigation and the same will create hindrance to the justice delivery system.

[15] It becomes an obligation on the part of a law abiding citizen to respect and obey the law of the land and the Court proceedings. Often arguments are advanced in writ petitions or in criminal cases saying that the respondent has violated doctrine of audi alteram partem and procedure contemplated under law has not been followed etc. praying for indulgence. But it becomes equally necessary to examine as to what accusation the citizen is facing and did he approach the Court of law with clean hands.

[16] In the backdrop of the allegations against citizen, it would be better to decide whether he is entitled to raise such argument. Citizen also is equally responsible to comply the requirements under the law. Law is not one sided as if only respondents should follow. Even the citizen/petitioner should first make out a prima facie case in his favour. A citizen cannot claim/plead equities, where he himself is not following the due process of law. As a law abiding citizen, the accused petitioner/applicant first ought to have appeared before the Court of law once summons are issued at first stage and at second stage warrants are issued he ought to have followed as contemplated under law laid down in BNSS. This Court does not invite, warranting of discretionary powers under Section 482 of BNSS for granting anticipatory bail for an accused person who is not trustworthy and evading the procedure and being non-cooperative. This Court finds that there are specific statements made against the accused-applicant.

[17] Since the cause of action and complaint has arisen during the existence of BNSS & BNS, provisions & procedure under Cr.PC & IPC become redundant and case needs to be dealt under new criminal laws and old criminal laws has no application. Arguments advanced by the counsel referring to old criminal laws stands rejected. It is to be seen that and draws the attention of this Court that the maternal grandmother complaining against her own grandson and the victim is her daughter. Prima facie, if there is nothing suspicious in the conduct of both the accused, there is no question as to why a mother (victim) and grandmother would complain. However, since this being an allegation amongst the family members and Juvenile A1, this Court feels not to further precipitate the matter and further damage their relation. May be the A1 Juvenile is under the influence

& tutoring by the father A2, else there is no need for complainant & victim to speak against their child A1 juvenile.

[18] In view of the above, this Court is of the considered opinion that the accused-applicant No.2, Sri Biplab Kumar Nath shall surrender before the concerned Court in West Tripura having jurisdiction on or before 10th March, 2026 and seek bail by filing appropriate application. On such application, the concerned court shall consider the same on merits in accordance with law.

[19] Accordingly, the instant anticipatory bail application in respect of applicant No.2, Biplab Kumar Nath stands dismissed.

[20] However, considering the fact that the accused-applicant No.1, Sri Boudhayan Kumar Nath, is a school going 14 years old boy and his school exam for Class IX is going to be held during last week of Feb 2026 onwards, therefore, a sympathetic view is taken in favour of him granting bail subject to the following conditions:

(i) The accused No.1, Boudhayan Kumar Nath shall appear before the concerned O.C., P.S.- N.C.C., West Tripura on or before 28.02.2026 and furnish personal bond for Rs.10,000/-.

(ii) The accused No.1 shall not enter into or visit the place of work, residence, locality or any premises of the victim and disturb them during the pendency of the case. And it has to be ensured by him with an undertaking that he will not come into contact with the victim, Smt. Sharmistha Mukharjee or Smt. Seba Mukharjee, the victim's mother (complainant) in any manner.

(iii) The accused No.1 shall maintain peace and good behavior and shall not involve himself in any similar offence.

(iv) The accused No.1 shall not, directly or indirectly, make any inducement, threat, or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the investigating agency or the Court.

(v) The accused No.1 shall not tamper with the prosecution evidence or influence with witnesses, if any, in any manner.

(vi) In case of violation of any of the above conditions, the prosecution shall be at liberty to seek cancellation of the anticipatory bail in accordance with law.

(vii) In the event if the complainant or the victim wish to seek relaxing of the conditions on being satisfied about the good conduct & behaviour of their child, Boudhayan Kumar Nath(14 years), they can come up with appropriate application.

[21] With the above observations and directions, the present application stands disposed of. Return the case diary.