

(2025) 05 TP CK 0639
In the Tripura High Court
Case No : Anticipatory Bail No. 37 Of 2025

Madan Debbarma

APPELLANT

Vs

State Of Tripura

RESPONDENT

Date of Decision : 08-05-2025

Acts Referred:

Bharatiya Nyaya Sanhita, 2023 — Section 74
Protection Of Children From Sexual Offences Act, 2012 — Section 8

Citation : (2025) 05 TP CK 0639

Bench : Single Bench

Advocate : Biswajit Palit, J

Judgement

Biswajit Palit, J

[01] This pre-arrest bail application is filed by the petitioner, Sri Madan Debbarma in connection with Melaghar P.S. Case No.021/2025 under Section 74 of BNS, 2023 read with Section 8 of POCSO Act.

[02] Heard Mr. P. Sen Chowdhury, Learned counsel assisted by Mr. S. Saha, Learned counsel appearing on behalf of the 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 appearing on behalf of the petitioner first of all drawn the attention of the Court that the petitioner has come from a very prestigious family and he is now posted as Head Master of Mohanbhog English Medium School, Melaghar under P.S. Sonamura and his wife is also Head Mistress and his other family members are also well educated. He has further submitted that an FIR is laid by one Sandhya Rani Jamatia on 02.05.2025 to Melaghar P.S. against him raising some allegation that the present petitioner committed out raging the modesty of her daughter and on the basis of the FIR this case was registered and the present petitioner being apprehended of arrest has filed this pre-arrest bail application before this Court.

[04] It was further submitted by Learned counsel for the petitioner that in

pursuance of notification dated 27.09.2023 issued by this High Court based upon the judgment dated 31.07.2023 of the Hon'ble Supreme Court of India in Criminal Appeal No2207/2023 [Md. Asfak Alam Vrs. The State of Jharkhand & Anr.] arising out of SLP (Crl.)No.3433/2023 there is no scope to reject the bail application of the present accused petitioner. He further submitted that there is no scope of absconding of the accused petitioner since he is already posted in a prestigious post and if at this stage, the petition is rejected and he is taken into custody, in that case his present status and position will be lowered in the general estimation of the public. So, Learned counsel has urged before the Court to pass at least an interim protection subject to production of CD by the prosecution on the next date.

[05] On the other hand, Learned P.P. appearing on behalf of the State-respondent strongly opposes the bail application and submitted that considering the nature and gravity of the offence, at this stage, without bare perusal of the case diary there is no scope to grant any interim protection. Furthermore, the petitioner is a Head Master of a school and if such type of person is involved in such heinous offence, in that case, there is very least scope to show any lenient view upon that person. Furthermore, he relied upon one citation of High Court of Allahabad in Deepak Prakash Singh versus State of U.P. and Another reported in 2023 SCC OnLine All 2150, Citation of the Hon'ble High Court of Delhi in N....versus State and Another reported in 2023 SCC OnLine Del 5387 and finally he also relied upon one citation of the Hon'ble Supreme Court of India in Srikant Upadhyay and Others versus State of Bihar and Another reported in 2024 SCC OnLine SC 282 and submitted that considering the nature and gravity of offence, at this stage till production of CD there is no scope to grant any interim protection and urged before the Court to allow the prosecution to produce CD on the next date.

Considered.

[06] I have perused the FIR. The gist in the FIR in short is that on 02.05.2025 one Sandhya Rani Jamatia laid an FIR to O/C Melaghar P.S. alleging inter alia that her daughter [the name is withheld for protecting her identity] is a student of Class-VIII of Mohanbhog English Medium School. On 01.05.2025 at about 1.00 p.m. the present accused petitioner called her daughter to his room for giving Hindi book and when her daughter went to the room for giving Hindi book at that time the accused-applicant closed the windows and door of the room with an ill motive and touched her back and when she raised objection that time, the present accused petitioner caught hold of her and touched different private parts of her body. Due to shame and fear, initially she did not share the incident to any person and after returning back to home, she narrated the entire episode to her mother. When the informant brought the incident to the knowledge of her husband and was informed to the local elderly persons but they could not take any decision and under compelling circumstances, the FIR was laid.

[07] It is the admitted position that the Case Diary is not before us at this stage.

The present case is registered under Section 74 of BNS, 2023 and also under Section 8 of POCSO Act. Punishment of offence in the event of eviction is less than 7 years. I have also gone through the citations referred above by Learned P.P. representing the prosecution wherein the Hon'ble High Court and the Hon'ble Supreme Court of India have discussed the parameters to be considered in considering the bail application and also the Hon'ble Supreme Court of India has given some observation regarding release of accused in passing interim protection. The investigation the case is in progress. It is also the admitted position that the victim is aged about 12 years. Learned counsel for the petitioner in course of hearing drawn the attention of the Court that considering the difference of age of the accused petitioner and the victim a doubt may be created regarding genuineness of the prosecution story. Although in the application certain narrations have been given by the petitioner-applicant. It was also submitted by Learned counsel for the petitioner that no notice was issued upon the petitioner accused as required by law. But it appeared to him that he may be taken into custody by police at any time, so, if some protection is not given then his position in the society will be hampered. So, for the sake of justice, he sought some protection and submitted that he will abide by any conditions of the Court and also will cooperate with the investigating agency. Since the case is also registered under POCSO Act, there is no scope to brush aside the submission made by Learned P.P. representing the prosecution. But at the same time, since the petitioner is a Head Master of a School, so considering his position if he is directly sent to jail and later if it is found that due to some misconception and or misunderstanding the case was registered, then it would be travesty of justice and at the same time the Court cannot ignore the allegation of the prosecution since the victim is a minor. So, at this stage, till perusal of the case diary there is no scope to consider the anticipatory bail application of the accused.

[08] Let the record of the concerned Police Station be called for from the concerned jurisdictional Court. Learned P.P. also be asked to produce the CD before this Court on 21.05.2025 and in the meantime till production of CD, no coercive action be taken by IO against the accused. However, it is made clear that if during this stage the petitioner tries to influence the investigating agency or to influence the witnesses of the prosecution, in that case the prosecution shall be at liberty to approach this Court for urgent hearing of the matter.

A copy of this order be supplied to Mr. Prasanta Sen Chowdhury, Learned counsel appearing for the petitioner and also a copy of this order be supplied to Mr. Raju Datta, Learned P.P. appearing for the State-respondent in course of the day.

List the matter on 21.05.2025.