

# Sri Banamali Sinha vs The State Of Tripura on 15 May, 2026

2026:THC:63

TRHC010007172026

HIGH COURT OF TRIPURA

AGARTALA

AB 27 of 2026

Sri Banamali Sinha,  
S/o sri Santababu Sinha, resident of  
Bilashpur, PS-Kailashahar, Unakoti,  
Tripura.

--- Applicant/Petitioner.

Versus

The State of Tripura,  
Represented by the Secretary,  
Department of Home, Agartala, West Tripura.

--- Respondent.

For the Applicant/Petitioner(s): Mr. Pranabashis Majumder, 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.

The present petition has been filed by the petitioner under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023 (for short, 'the BNSS') seeking pre-arrest bail in connection with East Agartala Women PS Case No.2026 WEA/008, registered under Sections 69/89 BNS,2023.

2. Allegations in the FIR, lodged by the victim, who is a lady of Scheduled Tribe community, are that in the year 2018, she met with the petitioner through facebook platform and thereafter they grew love affairs from the year 2019 and ultimately, they started to live together in the rented house of the victim from the year 2021 and even, since from the year 2020, physical relationship developed between them and during such live-in- relationship, the petitioner took money from her on several occasions and ultimately, she paid him around Rs.3,00,000/- in total which was never returned to her. During such relationship with him, she once conceived but on being pressurized by the petitioner, her pregnancy was terminated.

Thereafter, he suddenly on some trivial issues left her house and broke relationship with her. In the month of June, 2025 he also deleted their joint photographs from the mobile gallery of the victim. Their relationship were earlier known to the parents of both sides and after such breakup she requested his parents to accept her but the father of the petitioner using offensive language refused it as she was a girl of tribal community. Thereafter, the petitioner decided to get married with some other woman of his parents' choice and such marriage was going to be solemnized on 09.03.2026. Thereafter, she lodged the FIR. It is also categorically stated by her in the FIR that since the inception of their relationship, the petitioner promised her that he would marry her and as such, physical relationship occurred between them in the year 2020.

3. Learned counsel, Mr. P. Majumder strongly argues that it was a case of consensual sex between the parties and both are adult and there is also no prima facie material that the petitioner deceitfully cohabited with the victim. Learned counsel also submits that the petitioner is working in Cancer Hospital, Agartala as an outsourcing staff and he is a resident of Kailashahar. Therefore, there is no chance of his abscondance and he is ever ready to cooperate with the investigation. Thus, bail may be granted to him on any condition.

4. Learned counsel also in support of his contention relies on several decisions, which are highlighted hereunder:

I. Amol Bhagwan Nehul vs. The State of Maharashtra & Anr., Criminal Appeal No.\_\_\_\_\_ of 2025 arising out of SLP(Crl.) 10044 of 2024, decided on 26.05.2025. It was an appeal where the High Court rejected the petition of the accused filed under Section 482 of CrPC seeking quashing of a criminal proceeding in relating to the offences punishable under Sections 376/376(2)(n)/377/504 & 506 of IPC. In said case, at paragraph no.9, it was observed by the Hon'ble Supreme Court that it was not a case where there was a false promise to marry to begin with. A consensual relationship turning sour or partners becoming distant cannot be a ground for invoking criminal machinery of the State. Such conduct not only burdens the Courts, but blots the identity of an individual accused of such a heinous offence. This case is relating to the offences prior to BNS came into force.

II. Rajnish Singh alias Soni vs. State of Uttar Pradesh & Anr., (2025) 4 SCC 197-- In said case also, the appeal arose out of a rejection order of the High Court dismissing the petition filed under Section 482 of CrPC for quashing of criminal proceeding registered under Sections 376/384/323/504/506 of IPC. At paragraph no.41, the Hon'ble Supreme Court taking note of the materials placed in that case observes that by no stretch of imagination, can the Court be convinced that said case was a case wherein the appellant is liable to be prosecuted for having sexually exploited/assaulted the complainant based on a false promise of marriage. The allegations of the complainant are full of material contradictions and were ex facie unbelievable. Throughout the prolonged period of 16 years, the complainant kept completely quiet about the alleged sexual abuse, meted out to her by the appellant until she learnt that the appellant had married another woman.

III. Jaspal Singh Kaural vs. State of NCT of Delhi & Anr., (2025) 5 SCC 756-- In this case, the matter was challenged before the Hon'ble Supreme Court against the order passed by the High Court in a criminal revision, whereby, the order of the Additional Sessions Judge discharging the appellant in a case under Sections 376/506 of IPC, was set aside. Considering the materials in that case, Hon'ble Supreme Court observes that physical relationship between the appellant and respondent no.2 of that case was consensual from the very beginning and could not be said to be against the will or without the consent of the prosecutrix. It is also observed that even if the case of the prosecutrix is accepted, there is no material on record to show that there was any dishonest inducement, or incitement on the part of the appellant.

IV. Prashant vs. State of NCT of Delhi, (2025) 5 SCC 764--

In this case challenge was made before the Hon'ble Supreme Court against the order of the High Court passed under Section 482 of CrPC whereby the High Court refused to quash the FIR registered against the appellant under Sections 376(2)(n) and 506 of IPC. After taking note of the allegations made in the FIR and in the charge- sheet, Hon'ble Supreme Court observes that there is no indication that any promise of marriage was extended at the outset of their relationship in 2017 and therefore, even if the prosecution case is accepted at its face value, it cannot be concluded that the complainant had engaged in a sexual relationship with the appellant solely on account of any assurance of marriage from the appellant.

Moreover, in that case both the parties meanwhile settled their life marrying some other persons, and therefore, Hon'ble Supreme Court further observes that continuation of the prosecution would mean to gross abuse of process of law.

V. Khamendra Sahu vs. State of Chhattisgarh, MCRCA No 1371 of 2024-- In this case, the Jharkhand High Court while dealing with a petition for pre-arrest bail, observes after considering the facts and circumstances involved in that case, that the victim was a major girl of 23 years and there was an affair between the applicant and the victim and thereafter a consensual relationship was established between both of them but the relationship could not be materialized. Ultimately, pre-arrest bail was granted to the applicant.

VI. Prachith P. vs. State of Kerala, 2025 SCC OnLine Ker 3069--In the said case while dealing with a bail application under Sections 483 of BNSS, the Hon'ble Kerala High Court observes that there was continuous consensual relationship between the petitioner and the de facto complainant and that also happened in the house of the petitioner and his grandmother. The final report was already filed and considering the period of detention, the petitioner was granted bail.

VII. Prem Netam vs. State of Chhattisgarh, 2024 SCC OnLine Chh 10471-- The Hon'ble Chhattisgarh High Court after taking note of the materials placed in that case observes that the victim was aged about 30 years and there was consensual relationship and they established sexual relationship between them but their relationship could not be materialized, and therefore, the FIR was lodged on the ground that the applicant had refused to marry her. There was also delay of 7 months in lodging

FIR, for which there was no explanation given by the prosecutrix. Thus, without further commenting on the merit of the case, the accused was granted pre-arrest bail. While relying on this decision, learned counsel, Mr. Majumder submits that in the present case also there has been delay of 9 months in lodging the FIR without proper explanation.

VIII. Debajyoti Basu vs. State of Tripura, AB No. 23 of 2024, decided on 23.04.2026--In this case, the petitioner was favoured with an order of pre-arrest bail by this Court after considering the fact that nowhere in the statement the victim stated that the accused-petitioner had adopted any deceitful means or made any false promise to marry her and thereby induced her to go for physical relationship with her. Investigation in that case was also substantially proceeded with and there was a delay of one and half months in lodging the FIR, and therefore, finally the Court granted bail to the accused person.

5. Learned P.P., however, seriously opposes the prayer. He submits that the victim is a tribal lady and there are ingredients of offence under Section 3(2)(v) of Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1959 [for short, 'SC and ST (Prevention of Atrocities) Act'] in this case which provides that if a person not being a member of SC or ST commits any offence under Indian Penal Code (at present BNS), punishable with imprisonment for a term of 10 years or more against the person or property knowing that such person is a member of SC or ST or such property belongs to such member, shall be punishable with imprisonment for life and with fine.

6. Learned P.P. also submits that since inception of the relationship between the parties, the petitioner had the knowledge that she was a tribal lady and thereafter, he has committed an offence punishable under Section 69 of BNS, 2023 which prescribe punishment of 10 years and therefore, he has also simultaneously committed above said offence under SC and ST (Prevention of Atrocities) Act. Learned P.P. further submits that it is categorically stated by the victim that since very inception there was promise of marriage made by the petitioner for which she had engaged herself in such physical relationship with him and even he lived with her for a considerable period. He also took money from her and ultimately refused to marry her on the ground that she was a tribal woman. He also compelled her to go for miscarriage of the pregnancy by consuming pills. More so, learned P.P. submits, the police officer has seized the Aadhar Card, mark-sheet, PRTC certificate, etc. of the accused petitioner and one contraceptive pill box from the rented house of the victim which themselves justify that the petitioner had resided with the victim there.

7. Learned P.P. also submits that for a long period, the petitioner was absconder and that is why already proclamation has been issued against him as per order of learned Judicial Magistrate 1st Class, Agartala, dated 18.04.2026 and in such situation, the pre-arrest bail cannot be granted. In this regard, he also relies on a decision of Hon'ble Supreme Court in case of Srikanta Upadhyaya & Ors. vs. State of Bihar & Anr., (2024), 12 SCC 382 wherein at Paragraph No.30, it is observed by the Hon'ble Supreme Court that at any rate, when warrant of arrest or proclamation is issued, the applicant is not entitled to invoke the extraordinary power. Certainly, this will not deprive the power of the Court to grant pre-arrest bail in extreme and exceptional cases in the interest of justice but then, person(s) continuously defying the orders and keeps absconding is not entitled to such grant.

8. Learned P.P. lastly submits that as there are prima facie materials in this case attracting the provision of Section 3(2)(v) of the SC and ST (Prevention of Atrocities) Act, the petition for pre-arrest bail is not maintainable under Section 18 of the said Act.

9. The Court has considered the rival submissions of both sides and has taken note of all the materials placed in the CD as of now. There are prima facie materials that the petitioner is a lady belonged to ST community and according to her, on the assurance of marrying her, she engaged herself with the petitioner for physical relationship which continued for many years. They resided in the rented house of the victim in a live-in-relationship. The pregnancy testing kit was also seized by the investigating officer. The land lady of that rented house was also examined. There are also prima facie materials that ultimately the petitioner declined to marry her as she belonged to ST community, though he has full knowledge before entering into such physical relationship that the lady belongs to ST community. There are prima facie materials of section 69 of BNS,2023 against the present petitioner.

10. The decisions as referred to by learned counsel, Mr. Majumder are rendered considering the relevant materials available in respective cases and certainly, the materials placed in the present case in hand are not similar to those cases. There is also provision in Section 3(2)(v) of SC and ST (Prevention of Atrocities) Act, that if a person not being the member of SC or ST community commits any offence under Indian Penal Code (at present BNS), punishable with imprisonment for a term of 10 years or more against a person or property knowing that such person is a member of SC or ST community shall be punishable with imprisonment for life and with fine. Even if at this stage this provision is not taken into consideration as the police authority has not registered the case under said Special Act, still for the reasons discussed above, the petitioner is not entitled to get pre-arrest bail.

11. Bail application is, accordingly, rejected.

12. Return the C.D. with a copy of this order to learned P.P. JUDGE SAIKAT KAR Digitally signed by SAIKAT KAR Date: 2026.05.19 18:37:47 +05'30' sanjay