

**HIGH COURT OF TRIPURA
AGARTALA**

B.A. No.13 of 2026

Sri Priya Lal Debbarma ,
S/o. Lt. Nikhil Debbarma,
Of Tula Mura,
P.O- Jitandra Nagar, P.S- Kakra Ban,
Gomati District, Tripura.

For and on behalf of
Sri Bikash Debbarma,
S/o. Sri Priya Lal Debbarma,
Of Tula Mura,
P.O- Jitandra Nagar, P.S- Kakra Ban,
Gomati District, Tripura

.....Accused-Applicant(s).

Vs.

The State of Tripura,
Represented by its Secretary,
Department of Home,
Government of Tripura,
Agartala, Tripura (W),
Pin- 799010.

.....Respondent(s).

For Applicant(s) : Mr. Debasish Datta, Advocate.
Mr. Saugat Datta, Advocate.

For Respondent(s) : Mr. Rajib Saha, Addl. PP.

HON'BLE MR. JUSTICE S. DATTA PURKAYASTHA

Order

28/01/2026

Heard learned counsel of both sides.

An FIR was lodged by the father of the victim, stating that while his minor daughter was returning from school and had reached near thithum Salbagan, she was forcefully restrained by the accused, Bikash Debbarma, and taking her to a nearby jungle and after removing her pant, tried to have physical relations with her. The police authority registered the case as Kakraban P.S. Case No.52 of 2025, under Sections 126(2), 76, 64 and 62 of BNS Act and Section 8/18 of the POCSO Act. The police authority duly proceeded with the investigation and arrested the accused, Bikash Debbarma, on 11.10.2025. On completion of the investigation, the

Investigating Officer laid the charge sheet under Sections 126(2)/76 of BNS and Section 8 read with Section 18 of the POCSO Act.

Mr. Saugat Datta, learned counsel of the petitioner, submits that the accused has been in custody from the date of his arrest and in the meantime, he has suffered incarceration for more than 108 days. Mr. Datta, learned counsel also submits that there was no prayer from the side of the police for the custodial trial of the present accused person, but despite the same, learned Special Judge has erroneously rejected his bail application.

Mr. Rajib Saha, learned Addl. PP producing the CD submits that prima facie materials are there against the present accused person for the commission of offences as leveled in the charge sheet. Moreover, the charges were already framed in this case on 09.12.2025, and the next date is fixed for the recording of evidence. Therefore, if he is released on bail, he may influence the witnesses. However, learned Addl. PP also fairly admits that no petition for custodial trial was filed by the I.O.

Considered the submissions of both sides.

The provision of Section 126(2) of BNS Act is a bailable offence. Though the provision of Section 76 of BNS is non-bailable but the maximum prescribed punishment for said offence is up to 7 years of imprisonment. The prescribed punishment under Section 8 of the POCSO Act is up to 5 years of imprisonment. The I.O. has not submitted any petition or has not mentioned anything in the charge sheet, that the accused may abscond if released on bail, or there is any reasonable apprehension that he may influence the witnesses.

It appears the learned Special Judge *suo motu* issued a notice to the victim to appear, and in the order dated 11.12.2025, observed that considering the facts and circumstances of the case and also based on interaction with the victim, it appeared to him not to allow the bail application and accordingly learned Special Judge rejected the bail application and fixed the date for examination of prosecution witnesses. Except such vague observation, no reasoning was shown by the learned Special Judge in support of the rejection of the bail application. It is a time-honored principle as laid down by the Hon'ble Supreme Court in several cases that bail is the

general rule and rejection is the exception. Mr. Datta, learned counsel in this regard also relies on a decision of Hon'ble Supreme Court in case of **Sanjay Chandra vs. Central Bureau of Investigation, AIR 2012 SC 830**, it has also been observed by the Hon'ble Supreme Court that the Apex Court, time and again, has stated that bail is the rule and committal to jail is an exception and refusal of bail is a restriction on the personal liberty of the individual guaranteed under Article 21 of the Constitution. Learned Special Judge has failed to take note of such settled principle of law.

Considering all these aspects, the bail prayer is allowed.

The accused, Sanjoy Debbarma @ Bikash Debbarma, shall be released on bail in connection with Case No. Special (POCSO) 23 of 2025 on submission of bond of Rs.30,000/- (Rupees thirty thousand) with one surety of like amount to the satisfaction of the learned Special Judge, Gomati, Udaipur, with conditions that:

- (i) the accused will not try to influence or terrorise any witness of the case;
- (ii) and he will regularly attend the Court to face trial;

Return the CD with copy of this order.

Communicate copy of this order immediately to learned Special Judge, Gomati.

Re-consign the learned Trial Court record.

The bail application is, accordingly, disposed of.

JUDGE