

THE HIGH COURT OF SIKKIM : GANGTOK

(Criminal Jurisdiction)

SINGLE BENCH : THE HON'BLE MRS. JUSTICE MEENAKSHI MADAN RAI, JUDGE

BAIL APPLN. No.01 of 2026

Petitioner/Accused : Rochan Pradhan

versus

Respondent : State of Sikkim

Application under Section 483 of the
Bharatiya Nagarik Suraksha Sanhita, 2023

Appearance

Mr. Abhi Kant Jha, Ms. Preeti Basnett, Ms. Jaya Shree Pradhan
and Mr. Anish Byahut Advocates for the Petitioner/Accused.

Ms. Pema Bhutia, Assistant Public Prosecutor for the State-
Respondent.

Date of Hearing : 11-02-2026

Date of Order : 11-02-2026

Date of Uploading : 11-02-2026

ORDER (ORAL)

Meenakshi Madan Rai, J.

1. The instant application for bail has been filed by the Petitioner under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023, read with Section 31 of the Protection of Children from Sexual Offences Act, 2012 (hereinafter, the "POCSO Act"), seeking enlargement of the Petitioner/accused on bail. He is presently in judicial custody having been arrested in connection with Sadar Police Station, Gangtok, FIR No.108 of 2025, under Section 5(j)(ii) read with Section 6 of the POCSO Act.

2. Learned Counsel for the Petitioner submits that the Prosecution case arises from a consensual romantic relationship between the Petitioner, who was nineteen years at the time of the alleged offence and the alleged victim girl who was aged about fifteen years and six months at the relevant time. Learned Counsel urges that the existence of a romantic relationship

between the accused and the victim has been admitted in the FIR and is corroborated by the statement of the victim recorded during the investigation. In fact, the Medico Legal Examination Report of the victim does not indicate the use of force, violence, coercion or unnatural sexual acts. The FIR came to be lodged after the victim was taken by her mother to the STNM Hospital, Gangtok, when the victim was found to be running a fever. During the treatment, it came to light that the victim was pregnant and hence the criminal justice system was set into motion with the lodging of the FIR. That, the Petitioner is not a criminal and was in a consensual relationship with the victim and they had consensual sex which resulted in the pregnancy. The records of the Prosecution indicate that although the alleged victim was counselled to undergo a Medical Termination of Pregnancy, she on her own will refused to undergo the procedure. That, on 16-01-2026, the victim girl has given birth to a girl child and the Petitioner has not even seen the child till date. That apart, the parents of the Petitioner are taking care not only of the new born baby but also of the victim. That, previously an application for bail was filed by the Petitioner before the Court of the Learned Special Judge (POCSO Act), Gangtok, Sikkim, however the Petition was disposed of by a single paragraph Order, rejecting the application for bail, on grounds that it was statutory rape. That, humanitarian consideration may be given by this Court and since Charge-Sheet has already been filed and the trial is underway and in fact there was no criminality in the act of the Petitioner who is a permanent resident of this State, the Petition

for bail be allowed. The Petitioner undertakes to abide by any conditions imposed by this Court.

3. Resisting the submissions advanced, Learned Assistant Public Prosecutor submits that not only was the victim a child, being a little over fifteen years of age but the gravity of the offence, which is a statutory rape has also to be given due consideration, hence the Prosecution objects to the Petition for bail and urges that the Petition be rejected accordingly.

4. I have heard the rival contentions of Learned Counsel for the parties. It needs no reiteration that the Petitioner was nineteen years old at the time of the offence and he was arrested on 07-08-2025 when it came to light that the victim was pregnant on 06-08-2025, when she was taken for treatment for fever to the hospital. The records at this juncture indicate that the parties were in a romantic relationship and a sexual encounter between them resulted in the pregnancy. It is evident from the records, as also submitted by Learned Counsel for the Petitioner, that, the Petitioner has no criminal antecedents. He was working as a Chef in a hotel. In light of the aforesaid circumstances, he was arrested on 07-08-2025. He has been in judicial custody since.

(i) Having given due consideration to the submissions advanced, in my considered view, keeping the Petitioner under incarceration would be a travesty of justice, when the circumstances and the facts advanced before this Court at this juncture do not in fact indicate any criminal intent on his part.

5. However, I hasten to add that these remarks are only for the purposes of the instant bail Petition and are not to be construed as an opinion on the merits of the Case. When the trial

is taken up, the concerned Court shall rely solely upon the evidence furnished before it to reach a conclusion regarding the alleged offences.

6. In view of the facts and circumstances, as detailed hereinabove, the Petitioner be enlarged on bail, subject to the following conditions;

- (i) *The Petitioner shall furnish PB & SB of ₹ 30,000/- (Rupees thirty thousand) only, each, with two solvent sureties in the like amount, to the satisfaction of the Court of the Learned Special Judge (POCSO Act, 2012), at Gangtok, Sikkim.*
- (ii) *The Petitioner shall report before the Investigating Officer of the Case, Sadar Police Station, Gangtok, on every Monday and Thursday at 10.00 a.m.*
- (iii) *The Investigating Officer shall maintain a Register to mark the attendance of the Petitioner on such dates.*
- (iv) *The Petitioner shall not leave Gangtok District without the prior permission of the Investigating Officer.*
- (v) *The Petitioner shall be present before the Court of the Learned Special Judge (POCSO Act, 2012), at Gangtok, Sikkim, on all dates when the trial is fixed and as and when required.*

7. Bail Petition is allowed and disposed of.

8. A copy of this Order be forwarded to the Learned Trial Court immediately for information.

9. A copy of this Order also be forwarded to the Jail Authority, State Central Prison, Rongyek, Gangtok and to the Investigating Officer and Station House Officer, Sadar Police Station, Gangtok, for information and compliance.

(Meenakshi Madan Rai)
Judge
11-02-2026

Approved for reporting : **Yes**