

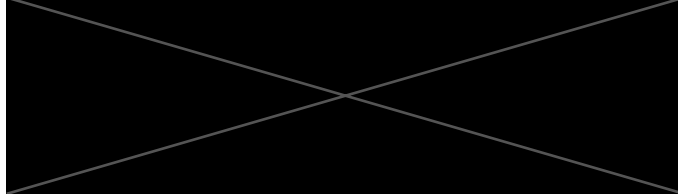
THE HIGH COURT OF SIKKIM: GANGTOK

(Civil Extra Ordinary Jurisdiction)

SINGLE BENCH: THE HON'BLE MR. JUSTICE BHASKAR RAJ PRADHAN, JUDGE

W.P. (C) No. 07 of 2026

Rabden Sherpa,



..... Petitioner

Versus

1. State of Sikkim
Through the Secretary
Department of Home,
Government of Sikkim,
Office at Tashiling Secretariat
Gangtok, Sikkim-737101.
2. State of Sikkim
Through Director General of Police,
Government of Sikkim,
Office at State Police Headquarter
NH10, Gangtok, Sikkim.
3. State of Sikkim,
Through Superintendent of Police,
Government of Sikkim,
Office at District Administrative Centre,
Gangtok, Sikkim-737101.
4. The Sikkim Chronicle,
Through its Editor/Authorized Representative
Having its registered office at:
DPH Area, above Paljor Stadium,
Gangtok, Sikkim-737101.

.....Respondents

**Application under Article 226 of the Constitution of
India.**

Appearance:

Mr. Abhinav Kant Jha, Advocate for the Petitioner.

Mr. S.K. Chettri, Government Advocate for the Respondent Nos. 1 to 3.

None for Respondent No.4.

Date of Hearing	:	07.04.2026
Date of Judgment	:	07.04.2026
Date of uploading	:	09.04.2026

J U D G M E N T (ORAL)

Bhaskar Raj Pradhan, J.

1. The petitioner who is being investigated under the Bharatiya Nayaya Sanhita, 2023 (BNS) desires to raise an issue of privacy in his favour. The State Police has registered a First Information Report (FIR) on 11.02.2026 against him involving various offences under sections 68, 75, 64, 351 of the BNS.

2. According to the petitioner, the fourth respondent i.e. Sikkim Chronicle published a news report regarding the registration of the FIR against the petitioner. According to the said report it was based on the Police Daily Situation Report. Therefore, the petition impugnes the alleged action of the State Police in disclosing the petitioner's name and the contents of the FIR to Sikkim Chronicle. The petitioner seeks a direction upon the State respondents not to disclose investigative material relating to the petitioner to the media or any third party during the pendency of the

investigation. The petitioner also prays that the Sikkim Chronicle be directed to remove all publications relating to the FIR naming him and his minor son and restrain Sikkim Chronicle from further publishing prejudicial, accusatory, or investigative content concerning the petitioner during the pendency of investigation and trial. Consequently, the petitioner prays for a direction for appropriate inquiry into unauthorised disclosure of police investigative material to media and fix responsibility upon the concerned officials. The petitioner further seeks the protection of the identity, privacy and dignity of the petitioner's minor child and restraining order that no further disclosure identifying the minor be passed.

3. At the preliminary hearing on perusal of the pleadings and the materials filed by the petitioner, this Court was of the view that it did not call for issuing notice upon Sikkim Chronicle at that stage. The matter was thereafter listed today.

4. Heard the learned counsel for the petitioner as well as the learned counsel for the respondent nos. 1 to 3.

5. The impugned news report (Annexure-P1) is a part of the present petition. The report, prima facie, reflects the contents of the FIR.

6. The learned counsel for the petitioner relies upon the judgment of the Supreme Court in ***Youth Bar Association of India vs. Union of India & Anr.***¹ as well as the direction in order dated 15.01.2026 in ***Peoples Union for Civil Liberties & Anr. vs. The State of Maharashtra & Ors.***² along with the copy of the Police Manual for Media Briefing filed on behalf of the learned Senior Advocate-Mr. Gopal Sankaranarayanan the Amicus Curiae in the matter.

7. In ***Youth Bar Association of India*** (supra) the Supreme Court was examining a petition preferred under Article 32 of the Constitution of India wherein the Youth Bar Association had prayed for issuance of a writ in the nature of mandamus, directing the Union of India and States to upload each and every FIR registered in all the Police Station within the territory of India on the official website of the Police of all States, as early as possible, preferably within 24 hours from the time of registration. The direction passed by the Supreme Court is quoted herein below:-

“11. Having heard the learned counsel for the parties, we think it appropriate to record the requisite conclusions and, thereafter, proceed to issue the directions:

11.1. An accused is entitled to get a copy of the first information report at an earlier stage than as prescribed under Section 207 CrPC.

11.2. An accused who has reasons to suspect that he has been roped in a criminal case and his name may be finding place in a first information report can submit an application through his

¹ (2016) 9 SCC 473

² 2026 INSC 79

representative/agent/parokar for grant of a certified copy before the police officer concerned or to the Superintendent of Police on payment of such fee which is payable for obtaining such a copy from the court. On such application being made, the copy shall be supplied within twenty-four hours.

11.3. *Once the first information report is forwarded by the police station to the Magistrate concerned or any Special Judge, on an application being filed for certified copy on behalf of the accused, the same shall be given by the court concerned within two working days. The aforesaid direction has nothing to do with the statutory mandate inhereed under Section 207 CrPC.*

11.4. *The copies of the FIRs, unless the offence is sensitive in nature, like sexual offences, offences pertaining to insurgency, terrorism and of that category, offences under the Pocso Act and such other offences, should be uploaded on the police website, and if there is no such website, on the official website of the State Government, within twenty-four hours of the registration of the first information report so that the accused or any person connected with the same can download the FIR and file appropriate application before the court as per law for redressal of his grievances. It may be clarified here that in case there is connectivity problems due to geographical location or there is some other unavoidable difficulty, the time can be extended up to forty-eight hours. The said 48 hours can be extended maximum up to 72 hours and it is only relatable to connectivity problems due to geographical location.*

11.5. *The decision not to upload the copy of the FIR on the website shall not be taken by an officer below the rank of Deputy Superintendent of Police or any person holding equivalent post. In case, the States where the District Magistrate has a role, he may also assume the said authority. A decision taken by the police officer concerned or the District Magistrate shall be duly communicated to the jurisdictional Magistrate concerned.*

11.6. *The word “sensitive” apart from the other aspects which may be thought of being sensitive by the competent authority as stated hereinbefore would also include concept of privacy, regard being had to the nature of the FIR. The examples given with regard to the sensitive cases are absolutely illustrative and are not exhaustive.*

11.7. *If an FIR is not uploaded, needless to say, it shall not enure per se a ground to obtain the benefit under Section 438 CrPC.*

11.8. *In case a copy of the FIR is not provided on the ground of sensitive nature of the case, a person grieved by the said action, after disclosing his identity, can submit a representation to the Superintendent of Police or any person holding the equivalent post in the State. The Superintendent of Police shall constitute a committee of three officers which shall deal with the said*

grievance. As far as the metropolitan cities are concerned, where Commissioner is there, if a representation is submitted to the Commissioner of Police, he shall constitute a committee of three officers. The committee so constituted shall deal with the grievance within three days from the date of receipt of the representation and communicate it to the grieved person.

11.9. *The competent authority referred to hereinabove shall constitute the committee, as directed hereinabove, within eight weeks from today.*

11.10. *In cases wherein decisions have been taken not to give copies of the FIR, regard being had to the sensitive nature of the case, it will be open to the accused/his authorised representative/parokar to file an application for grant of certified copy before the Court to which the FIR has been sent and the same shall be provided in quite promptitude by the court concerned not beyond three days of the submission of the application.*

11.11. *The directions for uploading of FIR in the website of all the States shall be given effect from 15-11-2016.*

[Emphasis supplied]

8. A perusal of the direction above reflects that it was meant to ensure that the accused who is entitled to get a copy of the FIR at an earlier stage than as prescribed under section 207 of the Code of Criminal Procedure, 1973 (Cr.P.C.) and an accused who has reason to suspect that he has been roped in a criminal case could take effective steps to protect his interest.

9. The above quoted directions of the Supreme Court mandate uploading the FIR in the police website or the Government website. If the FIR relate to sensitive offences the call to upload it or not is left to the appropriate authority. This power to take the decision as to whether the particulars of FIR is “sensitive” should or should not be

uploaded in the website has been left to the officer not below the rank of Deputy Superintendent of Police (DSP) or any person holding an equivalent post and in case of the State where the District Magistrate has a role he may also assume the said authority.

10. However, the Supreme Court in ***Youth Bar Association of India*** (supra) has not given any direction that the names of the accused and the contents of the FIR against him should not be disclosed. In fact, the direction is to upload the FIR in the public website as soon as possible.

11. In ***Peoples Union for Civil Liberties*** (supra) the Supreme Court directed the States to evolve an appropriate policy for media briefing by taking into consideration the police manual for media briefing prepared by the learned Amicus Curiae in the matter.

12. The learned counsel for the petitioner has taken this Court through various provisions of the proposed police manual for media briefing filed on behalf of the learned Amicus Curiae but has not been able to point out anything specific that requires the name of the accused person or the contents of the FIR not to be disclosed to protect his privacy. In any case, it is not even the case of the petitioner that there was any media briefing involved in the present case.

13. The learned counsel for the petitioner has also not been able to point out any law which mandates non disclosure of the name of an accused person or the contents of the FIR against him. In fact in my understanding the argument opposes the judgment of the Supreme Court relied upon by him in the matter of **Youth Bar Association of India** (Supra). If what the learned Counsel argues before this Court is to be upheld then the direction to upload the FIR in public websites given by the Supreme Court would be otiose. Therefore, I am not in agreement with the learned counsel's submissions.

14. The petition seeks to allege that Sikkim Chronicle has resorted to media trial. I am of the view that simply reporting the factum of registration of an FIR against the petitioner and the contents thereof does not amount to media trial.

15. It is true that an accused or an aggrieved person, who genuinely apprehends on the basis of the contents of any publication and its effect, and infringement of his rights under Article 21 to a fair trial and all that it comprehends, would be entitled to approach an appropriate writ court and seek an order of postponement of the offending publication/broadcast or postponement of reporting of certain phases of trial including identity of the victim or the

witness or the complainant. (see ***Sahara India Real Estate Corporation Limited & Ors. vs. Securities and Exchange Board of India & Anr.***³). However, such a decision should be taken on the facts of each case. The facts as disclosed in the writ petition do not warrant such an action.

16. In ***Sidhartha Vashisht alias Manu Sharma vs. State (NCT of Delhi)***⁴ the Supreme Court held that in the Indian criminal jurisprudence, the accused is placed in a somewhat advantageous position than under different jurisprudence of some of the countries in the world. The criminal justice administration system in India places human rights and dignity for human life at a much higher pedestal. In our jurisprudence an accused is presumed to be innocent till proven guilty, the alleged accused is entitled to fairness and true investigation and fair trial and the prosecution is expected to play balanced role in the trial of a crime. The investigation should be judicious, fair, transparent and expeditious to ensure compliance with the basic rule of law. These are the fundamental canons of our criminal jurisprudence and they are quite in conformity with the constitutional mandate contained in Article 20 and 21 of the Constitution of India. The Supreme Court also held that the power of the police to investigate freely and

³ (2012) 10 SCC 603

⁴ (2010) 6 SCC 1

fairly is well recognized and codified in law. It is hoped that the investigation is done in a fair and transparent manner.

17. Another issue raised by the petitioner is the disclosure of the name of the petitioner's son in the subsequent report published by Sikkim Chronicle. The petitioner states his son is a minor and therefore his identity should be protected. A perusal of the said report reflects that it is the verbatim extract of the contents of the communication addressed by the son of the accused person to Sikkim Chronicle. The said communication makes a request to consider presenting the clarification so that the public is informed of their side of the matter as well. The communication seems like a mature effort of the petitioner's son to raise his father's defence before the public. It was therefore, the desire and the request of the petitioner's son to place his side of the story to the public through Sikkim Chronicle. The said request was therefore, accepted by Sikkim Chronicle by publishing it as well.

18. The press and the media is the fourth pillar of democracy which should always be alert as a watch dog of our society. Reporting a crime is part of their duty. Fair and accurate reporting of the factum of lodging of the FIR against the accused person without disclosing the name and identity of the victim and judging the act alleged

cannot be termed as “media trial” and thereafter seek sanctions against it.

19. Article 19(1) (a) of the Constitution of India guarantees to all citizens the fundamental right to freedom of speech and expression. It permits individuals to express their thoughts, opinions and ideas. The fundamental freedoms includes and encompasses the freedom of the press. The freedom of press ensures a robust and informed citizenry. In fact it encourages the pursuit of truth. The right to freedom of speech and expression is however, not an absolute right and is subject to reasonable restrictions. I am of the view that this is not a case where reasonable restriction upon the press and media is required to be imposed. I find that the reportage by Sikkim Chronicle reporting both side of the story (i) the contents of the FIR and (ii) the letter of the son of the accused is a fair reportage well within their rights and duties. If the press and the media are doing their duty fairly and accurately I am also of the view that the Courts should restrain itself from dragging them into Courts on the mere asking.

20. In *Harendra Rai vs. State of Bihar & Ors.*⁵ the Supreme Court held that it is an undisputed position of law that the

⁵ (2023) 13 SCC 563

FIR is a public document defined under section 74 of the Indian Evidence Act, 1872. The Supreme Court considered various decisions of the High Courts of Karnataka, Gujarat, Allahabad, Delhi as well as Chhattisgarh and concluded by endorsing the views of the High Court's which held that the FIR is a public document defined under section 74 of the Indian Evidence Act, 1872. If therefore, FIR is a public document it can be procured by any person who has a right to inspect as was envisaged under the Indian Evidence Act, 1872 and now under the Bharatiya Saksha Adhiniyam, 2023 (BSA) .

21. In *R. Rajagopal Alias R.R. Gopal & Anr. vs. State of Tamil Nadu & Ors.*⁶ the Supreme Court dealt with right of privacy. Auto Shankar was convicted for six murders and sentenced to death. According to the petitioners who were the editor, printer and publisher and the associate editor of a Tamil weekly magazine Auto Shankar had written his biography in jail and handed it over to his wife with the knowledge and approval of the jail authorities for being delivered to his advocate with a request to publish the same in the petitioner's magazine. The autobiography depicted the close nexus between the prisoner and several IAS, IPS and other officers, some of whom were his partners in several crimes.

⁶ (1994) 6 SCC 632

The petitioners decided to commence serial publication of the autobiography and announce the same in their magazine. The Inspector General of Prisons wrote a letter to the first petitioner alleging that the serial in question was not written by Auto Shankar and asked him to stop publishing the same forthwith. The petitioners then filed a writ petition under Article 32 before the Supreme Court to challenge the letter and asserting the freedom of press and their right to publish the book. After a detailed discussion on the various facets of the right to privacy, the Supreme Court held as under:-

“26. *We may now summarise the broad principles flowing from the above discussion:*

(1) The right to privacy is implicit in the right to life and liberty guaranteed to the citizens of this country by Article 21. It is a “right to be let alone”. A citizen has a right to safeguard the privacy of his own, his family, marriage, procreation, motherhood, child-bearing and education among other matters. None can publish anything concerning the above matters without his consent — whether truthful or otherwise and whether laudatory or critical. If he does so, he would be violating the right to privacy of the person concerned and would be liable in an action for damages. Position may, however, be different, if a person voluntarily thrusts himself into controversy or voluntarily invites or raises a controversy.

(2) The rule aforesaid is subject to the exception, that any publication concerning the aforesaid aspects becomes unobjectionable if such publication is based upon public records including court records. This is for the reason that once a matter becomes a matter of public record, the right to privacy no longer subsists and it becomes a legitimate subject for comment by press and media among others. We are, however, of the opinion that in the interests of decency [Article 19(2)] an

exception must be carved out to this rule, viz., a female who is the victim of a sexual assault, kidnap, abduction or a like offence should not further be subjected to the indignity of her name and the incident being publicised in press/media.

(3) There is yet another exception to the rule in (1) above — indeed, this is not an exception but an independent rule. In the case of public officials, it is obvious, right to privacy, or for that matter, the remedy of action for damages is simply not available with respect to their acts and conduct relevant to the discharge of their official duties. This is so even where the publication is based upon facts and statements which are not true, unless the official establishes that the publication was made (by the defendant) with reckless disregard for truth. In such a case, it would be enough for the defendant (member of the press or media) to prove that he acted after a reasonable verification of the facts; it is not necessary for him to prove that what he has written is true. Of course, where the publication is proved to be false and actuated by malice or personal animosity, the defendant would have no defence and would be liable for damages. It is equally obvious that in matters not relevant to the discharge of his duties, the public official enjoys the same protection as any other citizen, as explained in (1) and (2) above. It needs no reiteration that judiciary, which is protected by the power to punish for contempt of court and Parliament and legislatures protected as their privileges are by Articles 105 and 104 respectively of the Constitution of India, represent exceptions to this rule.

(4) So far as the Government, local authority and other organs and institutions exercising governmental power are concerned, they cannot maintain a suit for damages for defaming them.

(5) Rules 3 and 4 do not, however, mean that Official Secrets Act, 1923, or any similar enactment or provision having the force of law does not bind the press or media.

(6) There is no law empowering the State or its officials to prohibit, or to impose a prior restraint upon the press/media.

27. We may hasten to add that the principles above mentioned are only the broad principles. They are neither exhaustive nor all-comprehending; indeed no such enunciation is possible or advisable. As rightly pointed out by Mathew, J., this right has to go

through a case-by-case development. The concepts dealt with herein are still in the process of evolution”.

[Emphasis supplied]

22. Similarly, the publication by Sikkim Chronicle in the impugned reportages becomes unobjectionable as it is based upon public records. In such situation the right to privacy no longer subsists and it becomes a legitimate subject to comment by press and media among others. This however, is not to legitimise media trial.

23. I am therefore, of the view that this writ petition does not need any further deliberation and can be dismissed at this stage itself. The writ petition is dismissed. Consequently, the interim application is also dismissed.

(Bhaskar Raj Pradhan)
Judge

Approved for reporting : **Yes**
Internet : **Yes**

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