

**HIGH COURT OF TRIPURA
AGARTALA**

B.A. No.31 of 2025

The State of Tripura

Represented by the Secretary to the Government of Tripura,
Home Department, Agartala.

---- Applicant

Versus

Sri Saikat Talapatra

S/O Late Ranjit Talapatra
Resident of AD Nagar Road No.6, P.O. & P.S.-A.D. Nagar,
District-West Tripura (Under custody at Kendriya Sansodhanagarh,
Bishalgarh)

----Respondent(s)

For Applicant(s)	:	Mr. Raju Datta, P.P.
For Respondent(s)	:	Mr. Purusuttam Roy Barman, Sr. Adv, Mr. Kawsik Nath, Adv.
Date of hearing	:	07.11.2025
Date of delivery of Judgment & Order	:	14.11.2025
Whether fit for reporting	:	YES

HON'BLE MR. JUSTICE BISWAJIT PALIT

Judgment & Order

Heard Learned P.P. Mr. Raju Datta appearing on behalf of State-applicant and also heard Learned Senior Counsel, Mr. Purusuttam Roy Barman assisted by Learned Counsel, Mr. Kawsik Nath appearing on behalf of the respondent-accused.

2. This application under Section 439(3) of Cr.P.C corresponding to Section 483(3) of BNSS, 2023 is filed by the State-applicant for cancelling the order of bail granted to the respondent-accused namely Saikat Talapatra in connection with PRC(WP)/1/2024 for the offence punishable under Section 354(A)/384/386/500/506/509 of IPC and Section 67 of IT Act.

3. At the time of hearing Learned P.P. appearing on behalf of the State-applicant has drawn the attention of the Court that on the basis of an FIR laid by one Smt. Antara Chowdhury, this present case has been registered by O/C, West Agartala Women PS against the respondent-accused. It was further submitted by Learned P.P. that by order dated 16.10.2023 passed by Learned CJM, Agartala, West Tripura in connection with PRC(WP)/1/2024, the accused has been shown arrested and there are at least 15 numbers of cases pending against this accused across the State and by order dated 11.01.2024 in connection with PRC(WP)/1/2024, this accused was granted interim bail by the Court of Learned J.M. 1st Class (Court No.6), Agartala, West Tripura. Thereafter, challenging that order the prosecution moved an application to the Court of Learned Sessions Judge, West Tripura, Agartala for cancellation of the bail granted to the accused and as such Learned Sessions Judge, West Tripura, Agartala by order dated 04.04.2024 in connection with case Crl. Misc./13/2024 cancelled the order of bail dated 11.01.2024 passed by Learned J.M. 1st Class(Court No.6), Agartala, West Tripura. After that, by order dated 07.10.2024 Learned J.M. 1st Class (Court No.6), Agartala, West Tripura framed charge under Section 384/385 of IPC and on 11.11.2024 the prosecution submitted an application under Section 216 of Cr.P.C. to the Learned J.M. 1st Class (Court No.6), Agartala, West Tripura for framing of additional charge under Section 354(A)(1)(iv)/506/509 of IPC and Section 67 of IT Act against the respondent-accused. The matter was taken up for hearing and Learned J.M. 1st Class

(Court No.6), Agartala, West Tripura by order dated 09.01.2025 rejected the said application submitted by the prosecution. Then the prosecution further moved another application to the Court of Learned Sessions Judge, West Tripura, Agartala challenging the order dated 09.01.2025 passed by Learned J.M. 1st Class (Court No.6), Agartala, West Tripura and the Learned Sessions Judge, West Tripura, Agartala by order dated 01.03.2025 in Crl. Misc.(Stay)/5/2025 was pleased to stay the proceeding of this case until further order. But thereafter on the prayer of the accused, Learned J.M. 1st Class (Court No.6), Agartala, West Tripura all on a sudden granted interim bail to the respondent-accused by order dated 24.04.2025 in connection with PRC(WP)/1/2024 violating the order of the superior Court which according to Learned P.P. attracts judicial indiscipline and violation of the order of the superior Court.

Learned P.P. further submitted that in a similar matter wherein Learned Senior Counsel was appearing on behalf of the victim by order dated 26.09.2025 in connection with B.A. No.69 of 2025 this Court has rejected the bail granted to the accused persons by the Learned Trial Court.

4. In this regard, Learned P.P. relied upon one citation of the Hon'ble Supreme Court of India reported in **(2024) 10 SCC 768 [titled as Ajwar vs. Waseem and Another and other connected cases]** wherein in para Nos.26, 27, 28 and 29, Hon'ble the Apex Court observed as under:

"Relevant parameters for granting bail

26. While considering as to whether bail ought to be granted in a matter involving a serious criminal offence, the Court must consider relevant factors like the nature of the accusations made against the accused, the manner in

which the crime is alleged to have been committed, the gravity of the offence, the role attributed to the accused, the criminal antecedents of the accused, the probability of tampering of the witnesses and repeating the offence, if the accused are released on bail, the likelihood of the accused being unavailable in the event bail is granted, the possibility of obstructing the proceedings and evading the courts of justice and the overall desirability of releasing the accused on bail. [Refer: Chaman Lal v. State of U.P.:(2004) 7 SCC 525; Kalyan Chandra Sarkar v. Rajesh Ranjan:(2004) 7 SCC 528; Masroor v. State of U.P.:(2009) 14 SCC 286, Prasanta Kumar Sarkar v. Ashis Chatterjee:(2010) 14 SCC 496, Neeru Yadav v. State of U.P.:(2014) 16 SCC 508, Anil Kumar Yadav v. State (NCT of Delhi):(2018) 12 SCC 129; Mahipal v. Rajesh Kumar:(2020) 2 SCC 118.]

27. It is equally well settled that bail once granted, ought not to be cancelled in a mechanical manner. However, an unreasoned or perverse order of bail is always open to interference by the superior court. If there are serious allegations against the accused, even if he has not misused the bail granted to him, such an order can be cancelled by the same Court that has granted the bail. Bail can also be revoked by a superior court if it transpires that the courts below have ignored the relevant material available on record or not looked into the gravity of the offence or the impact on the society resulting in such an order. In P v. State of M.P.:(2022) 15 SCC 211 decided by a three-Judge Bench of this Court [authored by one of us (Hima Kohli, J.)] has spelt out the considerations that must weigh with the Court for interfering in an order granting bail to an accused under Section 439(1) CrPC in the following words: (SCC p. 224, para 24)

"24. As can be discerned from the above decisions, for cancelling bail once granted, the court must consider whether any supervening circumstances have arisen or the conduct of the accused post grant of bail demonstrates that it is no longer conducive to a fair trial to permit him to retain his freedom by enjoying the concession of bail during trial:1995 SCC (Cri) 237. To put it differently, in ordinary circumstances, this Court would be loathe to interfere with an order passed by the court below granting bail but if such an order is found to be illegal or perverse or premised on material that is irrelevant, then such an order is susceptible to scrutiny and interference by the appellate court."

Considerations for setting aside bail orders

28. The considerations that weigh with the appellate court for setting aside the bail order on an application being moved by the aggrieved party include any supervening circumstances that may have occurred after granting relief to the accused, the conduct of the accused while on bail, any attempt on the part of the accused to procrastinate, resulting in delaying the trial, any instance of threats being extended to the witnesses while on bail, any attempt on the part of the accused to tamper with the evidence in any manner. We may add that this list is only illustrative and not exhaustive. However, the court must be cautious that at the stage of granting bail, only a prima facie case needs to be examined and detailed reasons relating to the merits of the case that may cause prejudice to the accused, ought to be avoided. Suffice it is to state that the bail order should reveal the factors that have been considered by the Court for granting relief to the accused.

29. In Jagjeet Singh :(2022) 9 SCC 321, a three-Judge Bench of this Court, has observed that the power to grant

bail under Section 439 CrPC is of wide amplitude and the High Court or a Sessions Court, as the case may be, is bestowed with considerable discretion while deciding an application for bail. But this discretion is not unfettered. The order passed must reflect due application of judicial mind following well-established principles of law. In ordinary course, courts would be slow to interfere with the order where bail has been granted by the courts below. But if it is found that such an order is illegal or perverse or based upon utterly irrelevant material, the appellate court would be well within its power to set aside and cancel the bail. (Also refer: *Puran v. Rambilas*:(2001) 6 SCC 338; *Narendra K. Amin v. State of Gujarat*:(2008) 13 SCC 584.)”

Relying upon the same, Learned P.P. submitted that if the order itself is illegal or perverse or unreasoned in that case it is always open for interference by the superior Court. Here in this case at hand Learned Trial Court knowing fully the order of the Learned Sessions Judge that the further proceeding has been stayed ordered for granting bail to the accused.

5. Learned P.P. also relied upon another citation of the Hon’ble Supreme Court of India reported in **AIR 2025 SC 1483 [titled as *Subhelal alias Sushil Sahu v. State of Chhattisgarh*]** wherein in para No.9, Hon’ble the Apex Court observed as under:

“9. If legislature had stopped at the end of the first part, making it mandatory for the Magistrate to release the accused on bail if the trial is not over within 60 days from the first date of taking evidence, the provision would have been somewhat akin to sub-section (2) of Section 167 of the Code. But, with the second part being in its place, the two provisions cannot be equated.”

Further, reference was made in another citation of the Hon’ble Supreme Court of India reported in **2012 SCC OnLine Guj 3960 [titled as *Nehul Prakashbhai Shah & 4 v. State of Gujrat*]** wherein in para No.7 Hon’ble the Apex Court observed as under:

“7. As discussed earlier, subs-section (2) of Section 437 of the Code can be divided in two parts. The first part would indicate that it is mandatory, but in the next breath, the legislature has given discretion to the Magistrate not to grant bail by assigning reasons. In that situation, although the first part can momentarily said to be

mandatory, it cannot be interpreted to give an indefeasible right to the accused of being released on bail, since that right is controlled/regulated by the later part of the sub-section. If legislature had stopped at the end of the first part, making it mandatory for the Magistrate to release the accused on bail if the trial is not over within 60 days from the first date of taking evidence, the provision would have been somewhat akin to sub-section (2) of Section 167 of the Code. But, with the second part being in its place, the two provisions cannot be equated. The provision of sub-section (6) of Section 437 can certainly be said to have been inserted with an intention to speed up the trial without unnecessarily detaining a person as an under-trial prisoner for a prolonged time. Contrary to that, Section 167(2) leaves no room for any discretion with the Court so far as release of an accused on bail is concerned in the given set of circumstances. Under this provision of the Code no reason is good to deny bail to the accused."

Referring the same, Learned P.P. submitted that if the provision of Section 437(6) is followed then it would be found that considering the facts and circumstances of the case there was no scope on the part of the Learned Trial Court to consider bail in favour of the respondent-accused-in-custody and urged for setting aside the order passed by Learned Trial Court.

6. Finally, Learned P.P. also drawn another order of the Delhi High Court dated 24.09.2025 in connected with **B.A./1516/2025 [titled as Nikhil Jain v. State of NCT of Delhi]** wherein in para No.12, Delhi High Court observed as under:

"12. A perusal of the application filed on behalf of the accused/applicant for cancellation of non-bailable warrants (copy of the application annexed with report the learned Magistrate) would show that there is no mention at all in the said application that two anticipatory bail applications were dismissed by this court and the SLPs arising out of the same were dismissed by the Supreme Court. Paragraphs 9 to 12 of the said application for cancellation of non-bailable warrants were cleverly drafted, stating that initially in the SLPs, an interim protection was granted by the Supreme Court but subsequently the SLPs were "disposed of". The honesty of drafting expected that the expression used should have been the exact expression as used in the Order dated 02.09.2024 of the Supreme Court that the SLPs stood "dismissed". Such half truth presented on behalf of the accused/applicant in his application before the Magistrate was clearly aimed at misleading the Magistrate, in which the accused/applicant succeeded. This successful attempt of the accused/applicant to mislead the court in itself should be a ground to deny him the relief of anticipatory bail."

Referring the said citation, Learned P.P. further submitted that the observation made by Delhi High Court can be taken into consideration in this case.

7. On the other hand, Learned Senior Counsel Mr. Purusuttam Roy Barman appearing on behalf of the accused-in-custody first of all drawn the attention of the Court that this is a very high profile case nowadays in the State and few cases are pending against him across the State and in this case the accused is incarceration in jail for more than two years and considering the nature and gravity of the offence even if it is found that the accused has committed the offence but by this time he was languishing in jail for a quite long period. Referring the order dated 24.04.2025 delivered by the Learned Trial Court in connection with PRC(WP)/1/2024 Learned Senior Counsel submitted that the order has been passed by the Learned Trial Court under Section 437(6) of Cr.P.C. in accordance with law and there was infirmity in the order passed by the Learned Trial Court. Learned Senior Counsel further submitted that the initial order dated 11.01.2024 in connection with PRC(WP)/1/2024 was passed prior to trial stage and the order dated 24.04.2025 has been passed during trial stage, so, Learned Trial Court rightly passed the order and there was no infirmity to that. It was further submitted that the charge was framed by Learned Trial Court and by order dated 09.01.2025 the Learned Trial Court rightly dismissed the application under Section 216 of Cr.P.C. filed by the prosecution and in support of his contention Learned Senior Counsel relied upon one citation of the Hon'ble Apex Court

reported in **AIR 2025 SC 1483 [titled as Subhelal alias Sushil Sahu v. State of Chhattisgarh]** wherein in para Nos.9, 13 and 17, Hon'ble the Apex Court observed as under:

"9. Sub-section (2) of Section 437 of the Code can be divided in two parts. The first part would indicate that it is mandatory, but in the next breath, the legislature has given discretion to the Magistrate not to grant bail by assigning reasons. In that situation, although the first part can momentarily said to be mandatory, it cannot be interpreted to give an indefeasible right to the accused of being released on bail, since that right is controlled/regulated by the later part of the sub-section. If legislature had stopped at the end of the first part, making it mandatory for the Magistrate to release the accused on bail if the trial is not over within 60 days from the first date of taking evidence, the provision would have been somewhat akin to sub-section (2) of Section 167 of the Code. But, with the second part being in its place, the two provisions cannot be equated. The provision of sub-section (6) of Section 437 can certainly be said to have been inserted with an intention to speed up the trial without unnecessarily detaining a person as an under-trial prisoner for a prolonged time. Contrary to that, Section 167(2) leaves no room for any discretion with the Court so far as release of an accused on bail is concerned in the given set of circumstances. Under this provision of the Code no reason is good to deny bail to the accused.

13. In our view, following factors would be relevant:

1. Whether the reasons for being unable to conclude trial within sixty days from the first date fixed of taking evidence, are attributable to the accused?
2. Whether there are any chances of the accused tampering with evidence or causing prejudice to the case of the prosecution in any other manner?
3. Whether there are any chances of abscondence of the accused on being bailed out?
4. Whether accused was not in custody during the whole of the said period?

If the answer to any one of the above referred fact situations or similar fact situations is in affirmative then that would work as a fetter on the right that accrues to the accused under first part of sub-section (6) of Section 437 of the Code.

17. This Court is of a considered view that applications under Section 437 (6) have to be given a liberal approach and it would be a sound and judicious exercise of discretion in favour of the accused by the Court concerned more particularly where there is no chance of tampering of evidence e.g. where the case depends on documentary evidence which is already collected; where there is no fault on part of the accused in causing of delay; where there are no chances of any abscondence by the accused; where there is little scope for conclusion of trial in near future; where the period for which accused has been in jail is substantial in comparison to the sentence prescribed for the offence for which he is tried. Normal parameters for deciding bail application would also be relevant while deciding application under Section 437(6) of the Code, but not with that rigour as they might have been at the time of application for regular bail."

Referring the same, Learned Senior Counsel submitted that the order dated 24.04.2025 was passed by Learned Trial Court under Section 437(6) of Cr.P.C. during trial stage and the earlier order was passed prior to trial and in view of the observation made by the Hon'ble Apex Court there was no infirmity in the order passed by the Learned Trial Court and urged for dismissal of the application for cancellation of bail filed by the prosecution.

8. In the case at hand as already stated the prosecution was set into motion on the basis of an FIR laid by the informant namely Antara Chowdhury to O/C, West Agartala women PS alleging inter alia that on 27.07.2023 at about 2000 hours the respondent-accused Saikat Talapatra posted a report (video) in his own Facebook channel named "Independent" under the title "Kaushik Antara Prem Parba-1" which contained derogatory, objectionable and sexually coloured remarks about the informant which had insulted/outraged the modesty of the complainant. It was also alleged by the informant that she was threatened through Facebook messenger call by him not to lodge any complaint or else he would post more such defamatory, maligning and sexually coloured rumours against her. The accused also threatened her to pay money to him if she wanted such kind of posts to stop and as such, the informant was forced to pay a total amount of 1 lakh 10 thousand rupees to Saikat Talapatra through Google pay through her UPI ID account into the bank account of the accused. Even after receipt of the money the accused continued demanding more money asking her to pay further 1

lakh rupees or else he would post much more derogatory intimidating and insulting posts and videos on his Facebook page which would compel her to commit suicide and after that, on 01.08.2023, the accused Saikat Talapatra again uploaded a second video against the informant with the title "Kaushik- Antara Prem Parba-2". Hence, the informant laid the FIR.

On the basis of the written FIR, O/C, West Agartala Women PS registered a case vide West Agartala Women PS case No.50 of 2023 under Section 354(A)/384/386/500/506/509 of IPC and Section 67 of IT Act and the case was endorsed to IO who on completion of investigation laid charge-sheet against the respondent-accused to face trial before the Court of law. As already stated, on the prayer of I/O by order 16.10.2023 the accused has been shown arrested in this case by Learned CJM, West Tripura, Agartala. Thereafter, by order dated 18.12.2023 the accused was granted statutory/default bail by Learned CJM, West Tripura, Agartala but the accused could not execute any bail bond. After that, the I/O has submitted charge-sheet against the accused and by order dated 03.01.2024, Learned CJM, West Tripura, Agartala took cognizance of offence punishable under Section 354(A)(1)(iv)/384/386/506/509 of IPC and Section 67 of IT Act against the accused and then the case was transferred to the Court of Learned J.M. 1st Class, Court No.6, Agartala, West Tripura for disposal as per law. In spite of granting bail, the accused could not execute any bail bond, so, by order 23.12.2023 his right of statutory bail was extinguished. Thereafter, by order dated 11.01.2024 Learned Trial Court granted bail to him and the

case was posted for discussion of charge. Thereafter, by order dated 04.04.2024 in connection with CrI Misc./13/2024, Learned Sessions Judge, West Tripura, Agartala cancelled the order of bail dated 11.01.2024 granted to the accused and that order till today stands good. After that, by order dated 07.10.2024, Learned J.M. 1st Class, Agartala, West Tripura framed charge against the respondent-accused under Section 384/385 of IPC and posted the case for examination of prosecution witnesses but on 11.11.2024 the prosecution submitted an application under Section 216 of Cr.P.C. for framing of additional charges under Section 354(A)(1)(iv)/506/509 of IPC and Section 67 of IT Act against the respondent-accused and as such, no evidence could be recorded. Then on 16.12.2024, a written objection was submitted by the accused against the application under Section 216 of Cr.P.C filed by the prosecution and after that, by order dated 09.01.2025 the Learned Trial Court rejected the application filed by the prosecution and posted the case for examination of PW-1. Thereafter, the prosecution approached to the Learned Sessions Court against that order dated 09.01.2025 and the Learned Sessions Court by order dated 01.03.2025 passed in connection with CrI. Misc.(stay)/5/2025 was pleased to stay further proceeding of the case bearing No.PRC(WP)/1/2024 until further order. The operative portion of the order dated 01.03.2025 passed by Learned Sessions Judge, West Tripura, Agartala in connection with CrI. Misc.(stay)/5/2025 runs as follows:

“ * * * * *

Accordingly, the Learned Judicial Magistrate 1st Class, Court No.6, West Tripura, Agartala is hereby directed not to proceed further with the case bearing No.PRC(WP) 01 of 2024 until further order.

* * * *

That stay petition according to prosecution is still pending for adjudication. In the meantime, by order dated 24.04.2024 Learned J.M. 1st Class, Agartala, West Tripura granted bail to the accused which has been challenged before this Court.

9. Now, for the sake of convenience I would like to refer herein below the relevant provision of Section 437(6) of Cr.P.C. which provides as under:

"437. When bail may be taken in case of non-bailable offence.-

(6) If, in any case triable by a Magistrate, the trial of a person accused of any non-bailable offence is not concluded within a period of sixty days from the first date fixed for taking evidence in the case, such person shall, if he is in custody during the whole of the said period, be released on bail to the satisfaction of the Magistrate, unless for reasons to be recorded in writing, the Magistrate otherwise directs."

From the aforesaid provision, it appears that the magistrate has got the power to release a person on bail if it appears to the magistrate that the trial of a person accused of any non-bailable offence is not concluded within a period of 60 days from the first date fixed for taking evidence in the case, such person shall, if he is in custody during the whole of the said period be released on bail to the satisfaction of the Magistrate unless for reasons to be recorded in writing, the Magistrate otherwise directs.

Here in this case, the first date fixed for recording evidence was fixed on 11.11.2024 but on that day prosecution moved one application under Section 216 of Cr.P.C. to the Learned Trial Court for alteration of charge which was later on rejected by Learned Trial Court by order dated 09.01.2025. Meaning thereby, the evidence could not be recorded on the first

day i.e. on 11.11.2024 rather the matter dragged and by order dated 09.01.2025 the application of the prosecution was rejected and further posted the date for recording evidence on 21.01.2025 but on that day also no evidence could be recorded as because on that day, the prosecution moved an application to the Learned Trial Court informing that the State has preferred one revision petition for staying operation of the order dated 09.01.2025. On perusal of the aforesaid provision it appears that a magistrate can apply his power if the conditions are satisfied as contained in the said Section.

10. Hon'ble the Apex Court in **Subhelal alias Sushil Sahu(supra)** in para No.19 discussed **Nehul Prakashbhai Shah(supra)** wherein it is specifically observed that duty is cast upon the concerned Magistrate to see that the trial of an accused is concluded within a period of 60 days from the first date of taking evidence. The Magistrate is obliged to make all possible endeavours to see that provisions contained in Section 437(6) of the code are complied with in its true, letter and spirit. To that extent, it appears that a right accrues in favour of an accused to tell the Court concerned that the trial has not been concluded within 60 days from the first date fixed for taking evidence for no fault on his part and, therefore, he should be released on bail, may be at that stage, there is some discretion vested in the Magistrate to refuse the bail for the reasons which the Magistrate may deem fit to record. Such reasons cannot be routine. Such reasons have to be weighty enough to outweigh the right that accrues to the accused in first part of sub-section (6) of Section

437 of the Code which appears to be drawing force from Article 21 of the Constitution of India.

From the aforesaid observation of the Hon'ble Apex Court, it appears that if the trial of a person in non-bailable offence is not concluded within a period of 60 days from the first date for taking evidence, in that case, the accused acquires a right to be released on bail although some discretion is vested to the Magistrate to refuse bail also. But here in the case although the date was fixed for recording evidence but the evidence could not be recorded on the ground that prosecution moved another application under Section 216 of Cr.P.C. for alteration of charge. In such a situation, there was very little scope on the part of the Learned Magistrate to grant bail invoking the provision of Section 437(6) of Cr.P.C.

11. More interestingly, prior to that order, Learned Sessions Judge already stayed further proceeding of this case, meaning thereby, by order dated 01.03.2025, Learned Sessions Judge seized the power of the Learned Magistrate to proceed further with the matter till disposal of the stay matter, in that case, where was the scope on the part of the Learned Magistrate to proceed further with this case to grant bail to the accused invoking the jurisdiction of Section 437(6) of Cr.P.C. Moreover, although there is similarity of law regarding Section 167(1) of Cr.P.C. with the first part of Section 437(6) of Cr.P.C. but the second part of Section 437(6) is a bit different and it gives a discretion to the Learned Magistrate to allow or to reject bail. Here in the case at hand the situation is a bit different. The proceeding

has been stayed by the Sessions Court, evidence of the prosecution witness has not yet been recorded and the bail order was once cancelled by the Sessions Court. In such a situation, the scope of granting bail by the Magistrate is very limited since the order of Sessions Judge has not been challenged by the respondent-accused to any other upper forum. The order on the part of the Learned Magistrate in the considered opinion of this Court was not passed in accordance with law and thus was violated the order of the superior Court as because the said order dated 01.03.2025 was brought to the knowledge of the Learned Trial Court by the prosecution and even the Learned Magistrate also in the last part of the order admitted that the Learned Sessions Judge stayed the proceeding of the case. Thus, it appears that the Learned Trial Court acted beyond jurisdiction and violated the order of the superior Court.

12. The citation referred by Learned Senior Counsel Mr. Roy Barman is undoubtedly very much relevant but the principle of the said citation cannot be applied in the present case in view of the fact that further proceeding of this case was stayed by the superior Court.

13. In this regard, Hon'ble the Apex Court in a judgment reported in **2025 SCC OnLine SC 2366 [titled as Rohan Vijay Nahar and others V. State of Maharashtra and others]** wherein in para Nos.3 and 14.5, Hon'ble the Apex Court observed as under:

"3. Judicial discipline is the ethic that turns hierarchy into harmony. It requires courtesy, restraint, and obedience to binding precedent even where a judge is personally unpersuaded. The lawful course is to apply the precedent and, if needed, record reasons for inviting a larger Bench to reconsider it. The unlawful and unjust course is to

distinguish in name while disregarding in substance or to recast issues in order to sidestep a rule that binds. "Stare decisis et non quieta movere" which means to stand by decisions and not to disturb settled matters, is not a slogan but a safeguard of equality before the law. Judges do not sit to settle scores. The gavel is an instrument of reason and not a weapon of reprisal. A vindictive stance is incompatible with the oath to uphold the Constitution and the law.

14.5. Judicial discipline required faithful application of the law. declared by this Court under Article 141 of the Constitution. Coordinate Benches of the High Court have consistently followed *Godrej and Boyce (Supra)* in closely comparable situations. The impugned judgment nonetheless revives positions that *Godrej and Boyce (Supra)* has rejected. We also note that the Bench was presided over by the same Judge who had earlier taken a contrary view that was set aside by this Court. We do not attribute motive. However, when a judgment minimizes a binding ratio, ignores missing statutory steps, and seeks to distinguish on immaterial facts, it creates an appearance of a reluctance to accept precedent. Such an approach conveys a measure of pettiness that is inconsistent with the detachment that judicial reasoning demands. In our view, this is an unfortunate departure from the discipline of stare decisis."

Further, in another case reported in **(2005) 2 SCC 42** **[titled as Kalyan Chandra Sarkar V. Rajesh Ranjan alias Pappu Yadav and another]** wherein in para No.19 and 20, Hon'ble the Apex Court observed as under:

"19. The principles of res judicata and such analogous principles although are not applicable in a criminal proceeding, still the courts are bound by the doctrine of judicial discipline having regard to the hierarchical system prevailing in our country. The findings of a higher court or a coordinate Bench must receive serious consideration at the hands of the court entertaining a bail application at a later stage when the same had been rejected earlier. In such an event, the courts must give due weight to the grounds which weighed with the former or higher court in rejecting the bail application. Ordinarily, the issues which had been canvassed earlier would not be permitted to be reagitated on the same grounds, as the same would lead to a speculation and uncertainty in the administration of justice and may lead to forum hunting.

20. The decisions given by a superior forum, undoubtedly, are binding on the subordinate fora on the same issue even in bail matters unless of course, There is a material change in the fact situation calling for a different view being taken. Therefore, even though there is room for filing a subsequent bail application in cases where earlier applications have been rejected, the same can be done if there is a change in the fact situation or in law which requires the earlier view being interfered with or where the earlier finding has become obsolete. This is the limited area in which an accused who has been denied bail earlier, can move a subsequent application. Therefore, we are not in agreement with the argument of learned counsel for the accused that in view of the guarantee conferred on a person under Article 21 of the Constitution, it is open to the aggrieved person to make successive bail

applications even on a ground already rejected by the courts earlier, including the Apex Court of the country.”

On perusal of the above citation, it is clear that the decisions given by a superior forum, undoubtedly, are binding on the subordinate fora on the same issue even in bail matters unless of course, there is a material change in the fact situation calling for a different view being taken.

14. Further, after perusal of the order dated 24.04.2025, it appears that in passing the said order, Learned Trial Court below acted beyond jurisdiction and overlooked the order passed by the superior Court which attracts judicial indiscipline and as such the order passed by Learned Trial Court cannot be sustained in the eye of law and accordingly the same stands cancelled.

Admittedly, in this case, the Learned Magistrate before considering the matter could have taken up the matter in administrative side either with the Sessions Judge or with the High Court but without doing so, the Learned Trial Court passed the order which appears to be non-application of mind and lack of knowledge for which the officer concerned should undergo further periodical training under the care of Director, Tripura Judicial Academy in respect of bail matters.

It is to be noted here that as submitted by Learned P.P. in course of hearing, Crl. Misc.(Stay)/5/2025 is still pending for adjudication before the Court of Learned Sessions Judge, West Tripura, Agartala. So, Learned Sessions Judge, West Tripura, Agartala be asked to dispose of the case within a period of 1(one) month from the date of receipt of copy of this order. Thereafter, the Learned Trial Court after receipt of the copy of the order from

the Court of Learned Sessions Judge, West Tripura, Agartala shall make all endeavour to dispose of the case within a period of next six months considering the fact that the accused is languishing in jail. However, it will be always open for the accused-in-custody to approach for bail to the appropriate forum in accordance with law considering the facts and circumstances of the case if he is so advised.

With this observation, this present bail application stands disposed of.

A copy of this order be communicated to Registrar General, High Court of Tripura for information and compliance.

Also, a copy of this order be communicated to Learned Sessions Judge for information in connection with Crl. Misc(Stay)/5/2025 arising out of PRC(WP)/1/2024.

Send down the record of Learned Trial Court along with a copy of this order.

Return back the Case Diary, if any, to IO through Learned P.P. along with a copy of this order.

JUDGE