

**HIGH COURT OF TRIPURA
AGARTALA
BA No.36 of 2025**

Sri Sajul Islam Purakayastha,
Son of Nasir Uddin Purkayastha,
Resident of Jalal Pur, Part 1, P.S. Kalain,
District: Cachar, State: Assam

---Petitioner on behalf
of the accused person in
custody

Sri Samim Uddin Purakayastha,
Son of Nasir Uddin Purkayastha,
Resident of Jalal Pur, Part 1, P.S. Kalain,
District: Cachar, State: Assam

---Accused person in
custody

-Vs-

The State of Tripura

---Respondent

For Applicant(s)	:	Mr. Subrata Sarkar, Sr. Adv. Mr. Kabrabam Dhirendra Singha, Adv.
For Respondent(s)	:	Mr. Rajib Saha, Addl. P.P.

HON'BLE MR. JUSTICE BISWAJIT PALIT

Order

04/07/2025

Learned Senior Counsel Mr. S. Sarkar assisted by Mr. K. D. Singha, Learned Counsel is present on behalf of the accused-applicant. Learned Addl. P.P. Mr. Rajib Saha is present for the State-respondent.

On the last date we have already heard both the sides in the matter of granting bail to the accused-applicant. The accused was granted interim bail by order of this court on 30.05.2025 and thereafter his period of interim bail was further extended till today. On 30.05.2025 at the time of hearing Learned Senior Counsel drawn the attention of the Court that the accused was not FIR named and no contraband item was seized from his

possession and based on the interrogation report of the co-accused and referring Annexure-J, L and K i.e. the compliance reports Learned Senior Counsel further drawn the attention of the Court that in none of the compliance reports the I.O. made any allegation against the accused-applicant showing his implication with the alleged crime and from the compliance report only the name of the master mind Md. Ansar Uddin and other co-accused persons namely Billal Miah, Saddam Hosain, Saikul and Kader were revealed and during interrogation the accused admitted that he modified the fuel tank of vehicle bearing registration No.AS01-HC-6438 for monetary benefit although he was unaware regarding the consignment of drugs (YABA tablets) and Learned Senior Counsel in support of his contention further submitted that the 'grounds of arrest' was not communicated to the accused in arrest memo(Annexure-P) and in support of his contention in writing he relied upon the following citations:

In **Prabir Purkayastha vs. State (NCT of Delhi dated May 15, 2024)** reported in **(2024) 8 SCC 254** wherein in para Nos.28, 29, 30, 37 and 48 Hon'ble the Apex Court observed as under:

"28. The language used in Article 22(1) and Article 22(5) of the Constitution of India regarding the communication of the grounds is exactly the identical. Neither of the constitutional provisions require that the "grounds" of "arrest" or "detention", as the case may be, must be communicated in writing. Thus, interpretation to this important facet of the fundamental right as made by the Constitution Bench while examining the scope of Article 22(5) of the Constitution of India would ipso facto apply to Article 22(1) of the Constitution of India insofar as the requirement to communicate the grounds of arrest is concerned.

29. Hence, we have no hesitation in reiterating that the requirement to communicate the grounds of arrest or the grounds of detention in writing to a person arrested in connection with an offence or a person placed under preventive detention as provided

under Articles 22(1) and 22(5) of the Constitution of India is sacrosanct and cannot be breached under any situation. Non-compliance of this constitutional requirement and statutory mandate would lead to the custody or the detention being rendered illegal, as the case may be.

30. Furthermore, the provisions of Article 22(1) have already been interpreted by this Court in Pankaj Bansal [Pankaj Bansal v. Union of India, (2024) 7 SCC 576] laying down beyond the pale of doubt that the grounds of arrest must be communicated in writing to the person arrested of an offence at the earliest. Hence, the fervent plea of the learned ASG that there was no requirement under law to communicate the grounds of arrest in writing to the appellant-accused is noted to be rejected.

37. The interpretation given by the learned Single Judge that the grounds of arrest were conveyed to the accused in writing vide the arrest memo is unacceptable on the face of the record because the arrest memo does not indicate the grounds of arrest being incorporated in the said document. Column 9 of the arrest memo (Annexure P-7) which is being reproduced hereinbelow simply sets out the "reasons for arrest" which are formal in nature and can be generally attributed to any person arrested on accusation of an offence whereas the "grounds of arrest" would be personal in nature and specific to the person arrested.

"9. Reason for arrest

- (a) Prevent the accused person from committing any further offence.
- (b) For proper investigation of the offence.
- (c) To prevent the accused person from causing the evidence of the offence to disappear or tampering with such evidence in any manner.
- (d) To prevent such person from making any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to the police officer.
- (e) As unless such person is arrested, his presence in the court whenever required cannot be ensured."

48. It may be reiterated at the cost of repetition that there is a significant difference in the phrase "reasons for arrest" and "grounds of arrest". The "reasons for arrest" as indicated in the arrest memo are purely formal parameters viz. to prevent the accused person from committing any further offence; for proper investigation of the offence; to prevent the accused person from causing the evidence of the offence to disappear or tampering with such evidence in any manner; to prevent the arrested person for making inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to the investigating officer. These reasons would commonly apply to any person arrested on charge of a crime whereas the "grounds of arrest" would be required to contain all such details in hand of the investigating officer which necessitated the arrest of the accused. Simultaneously, the grounds of arrest informed in writing must convey to the arrested

accused all basic facts on which he was being arrested so as to provide him an opportunity of defending himself against custodial remand and to seek bail. Thus, the "grounds of arrest" would invariably be personal to the accused and cannot be equated with the "reasons of arrest" which are general in nature."

In **Pankaj Bansal vs. Union of India and Ors.**

reported in **2024 7 SCC 576** Hon'ble the Apex Court in para Nos.38 and 45 observed as under:

"38. In this regard, we may note that Article 22(1) of the Constitution provides, inter alia, that no person who is arrested shall be detained in custody without being informed, as soon as may be, of the grounds for such arrest. This being the fundamental right guaranteed to the arrested person, the mode of conveying information of the grounds of arrest must necessarily be meaningful so as to serve the intended purpose. It may be noted that Section 45 PMLA enables the person arrested under Section 19 thereof to seek release on bail but it postulates that unless the twin conditions prescribed thereunder are satisfied, such a person would not be entitled to grant of bail. The twin conditions set out in the provision are that, firstly, the court must be satisfied, after giving an opportunity to the Public Prosecutor to oppose the application for release, that there are reasonable grounds to believe that the arrested person is not guilty of the offence and, secondly, that he is not likely to commit any offence while on bail. To meet this requirement, it would be essential for the arrested person to be aware of the grounds on which the authorised officer arrested him/her under Section 19 and the basis for the officer's "reason to believe" that he/she is guilty of an offence punishable under the 2002 Act. It is only if the arrested person has knowledge of these facts that he/she would be in a position to plead and prove before the Special Court that there are grounds to believe that he/she is not guilty of such offence, so as to avail the relief of bail. Therefore, communication of the grounds of arrest, as mandated by Article 22(1) of the Constitution and Section 19 PMLA, is meant to serve this higher purpose and must be given due importance.

45. On the above analysis, to give true meaning and purpose to the constitutional and the statutory mandate of Section 19(1) PMLA of informing the arrested person of the grounds of arrest, we hold that it would be necessary, henceforth, that a copy of such written grounds of arrest is furnished to the arrested person as a matter of course and without exception. The decisions of the Delhi High Court in Moin Akhtar Qureshi [Moin Akhtar Qureshi v. Union of India, 2017 SCC OnLine Del 12108] and the Bombay High Court in Chhagan Chandrakant Bhujbal [Chhagan Chandrakant Bhujbal v. Union of India, 2016 SCC OnLine Bom 9938 : (2017) 1 AIR Bom R (Cri) 929] , which hold to the contrary, do not lay down the correct law. In the case on hand, the admitted position is that ED's investigating officer merely read out or permitted reading of the grounds of arrest of the appellants and left it at that, which is also disputed by the

appellants. As this form of communication is not found to be adequate to fulfil compliance with the mandate of Article 22(1) of the Constitution and Section 19(1) PMLA, we have no hesitation in holding that their arrest was not in keeping with the provisions of Section 19(1) PMLA. Further, as already noted supra, the clandestine conduct of ED in proceeding against the appellants, by recording the second ECIR immediately after they secured interim protection in relation to the first ECIR, does not commend acceptance as it reeks of arbitrary exercise of power. In effect, the arrest of the appellants and, in consequence, their remand to the custody of ED and, thereafter, to judicial custody, cannot be sustained."

In **Vihaan Kumar vs. State of Haryana & Anr.** reported in **2025 SCC OnLine 269** Hon'ble the Apex Court in para No.21 observed as under:

"CONCLUSIONS

21. Therefore, we conclude:

- a) The requirement of informing a person arrested of grounds of arrest is a mandatory requirement of Article 22(1);
- b) The information of the grounds of arrest must be provided to the arrested person in such a manner that sufficient knowledge of the basic facts constituting the grounds is imparted and communicated to the arrested person effectively in the language which he understands. The mode and method of communication must be such that the object of the constitutional safeguard is achieved;
- c) When arrested accused alleges non-compliance with the requirements of Article 22(1), the burden will always be on the Investigating Officer/Agency to prove compliance with the requirements of Article 22(1);
- d) Non-compliance with Article 22(1) will be a violation of the fundamental rights of the accused guaranteed by the said Article. Moreover, it will amount to a violation of the right to personal liberty guaranteed by Article 21 of the Constitution. Therefore, non-compliance with the requirements of Article 22(1) vitiates the arrest of the accused. Hence, further orders passed by a criminal court of remand are also vitiated. Needless to add that it will not vitiate the investigation, charge sheet and trial. But, at the same time, filing of chargesheet will not validate a breach of constitutional mandate under Article 22(1);
- e) When an arrested person is produced before a Judicial Magistrate for remand, it is the duty of the Magistrate to ascertain whether compliance with Article 22(1) and other mandatory safeguards has been made; and
- f) When a violation of Article 22(1) is established, it is the duty of the court to forthwith order the release of the accused. That will be a ground to grant bail even if statutory restrictions on the grant of bail exist. The

statutory restrictions do not affect the power of the court to grant bail when the violation of Articles 21 and 22 of the Constitution is established."

Finally after hearing this court granted interim bail with a direction to the prosecution to produce the case diary. Accordingly on 27.06.2025 Learned Addl. P.P. produced the case diary. On 27.06.2025 at the time of hearing Learned Senior Counsel appearing for the accused-applicant relied upon the aforesaid citations referred by him on the earlier occasion and also reiterated his submission referring the same citations.

On the other hand, Learned Addl. P.P. in course of his submission referred few pages of the case diary and submitted that grounds of arrest was duly communicated to the accused and as such there was no non-compliance from the side of the prosecution in compliance with the requirements of law and in support of his contention he relied upon a citation of the Hon'ble Supreme Court of India in **Kasireddy Upender Reddy vs. State of Andhra Pradesh and Others in Criminal Appeal No.2808 of 2025** reported in **2025 SCC OnLine SC 1228** wherein in para No.36 Hon'ble the Apex Court observed as under:

"36. If a person is arrested on a warrant, the grounds for reasons for the arrest is the warrant itself; if the warrant is read over to him, that is sufficient compliance with the requirement that he should be informed of the grounds for his arrest. If he is arrested without a warrant, he must be told why he has been arrested. If he is arrested for committing an offence, he must be told that he has committed a certain offence for which he would be placed on trial. In order to inform him that he has committed a certain offence, he must be told of the acts done by him which amounts to the offence. He must be informed of the precise acts done by him for which he would be tried; informing him merely of the law applicable to such acts would not be enough. (See: Vimal Kishore Mehrotra (supra))."

Referring the same Learned Addl. P.P. drawn the attention of the court that in view of the principle of the law laid down by the Hon'ble Apex Court in the aforementioned case since the ground of

arrest was already explained to the accused-applicant at the time of arrest as such it is not required that the grounds of arrest be communicated to him in writing and further submitted that there was no lack on the part of the prosecution to ensure the compliance of law and as such there is no scope to grant bail to the accused at this stage and prayed for dismissal of the privilege of the interim bail granted to the accused.

Considered.

I have already gone through the aforesaid citations referred by Learned Senior Counsel for the accused-applicant in the aforesaid cases and also gone through the citation referred by Learned Addl. P.P. representing the prosecution.

It appears that Hon'ble the Apex Court at the time of delivery of the aforesaid judgment in **Kasireddy**(supra) discussed about the judgment of Hon'ble the Supreme Court of India in **Vihaan Kumar** (supra) and finally in para Nos.37 and 39 Hon'ble the Apex Court further observed as under:

"37. In the overall view of the matter more particularly having gone through the grounds of arrest we have reached the conclusion that the requirement in terms of para 21(b) as laid down in Vihaan Kumar (supra) could be said to have been fulfilled.

39. It is needless to clarify that it shall be open for the person arrested viz. Kessireddy Raja Shekhar Reddy and in judicial custody as on date to apply for regular bail before the competent court. If any regular bail application is pending as on date, the same shall be taken up for hearing at the earliest and be decided in accordance with law keeping in mind the well-settled principles governing the grant of regular bail."

Further in para No.37 of **Kasireddy** (supra) Hon'ble the Supreme Court stated that the requirement in terms of para 21(b) as laid down in **Vihaan Kumar** (supra) could be said to have been fulfilled. Para 21(b) of **Vihaan Kumar** (supra) is reproduced hereunder:

"b) The information of the grounds of arrest must be provided to the arrested person in such a manner that sufficient knowledge of the basic facts constituting the grounds is imparted and communicated to the arrested person effectively in the language which he understands. The mode and method of communication must be such that the object of the constitutional safeguard is achieved;"

On perusal of Annexure-P i.e. the arrest memo which has been challenged at the time of hearing by Learned Senior Counsel for the accused-applicant and also on perusal of the relevant papers indicated by Learned Addl. P.P. in the case diary at the time of hearing it appears to this court that at the time of arrest the grounds of arrest was not communicated to the accused-applicant by the I.O. of this case and thus the I.O. has failed to comply with the requirements of law laid down by the Hon'ble Apex Court in the aforementioned cases and also the law laid down by the Hon'ble Apex Court in the case of **Kasireddy Upender Reddy** (supra) as relied upon by the prosecution. In such a situation on the face of materials on record it appears to this court that for violation of Article 22(1) the accused should be released on bail even if statutory restriction on the grant of bail exists. Herein in the case at hand since there is statutory bar as provided under Section 37 of the NDPS Act but since the law laid down in the aforementioned cases is violated, as such there is no scope to disallow the bail application filed by the accused-applicant for violation of Article 21 and 22 of the Constitution of India. The submission made by the Learned Addl. P.P. cannot be accepted and it appears to this court that there was complete violation of Article 21 and 22 of the Constitution of India and as such inspite of having restriction of Section 37 of NDPS Act the present accused-applicant is required to be released on bail henceforth.

Furthermore, prosecution also failed to satisfy the Court regarding application of Section-37 of NDPS Act against the accused at the time of hearing. Hence, the bail application filed by the accused-applicant is hereby allowed. The accused-applicant may be enlarged on regular bail of his execution of bond of Rs.1,00,000/- (one lakh) with two sureties of like amount to the satisfaction of the Learned Special Judge (NDPS), Dhalai Judicial District, Ambassa with the following terms and conditions:

- (i) The accused shall appear before the I.O. once in a week till filing of chargesheet, if any.
- (ii) The accused shall not make any attempt to tamper the evidence on record of the prosecution.
- (iii) The accused shall not leave the jurisdiction of the Court without prior permission of the Court.

The accused was in interim bail till today. He is to surrender before the Learned Court of Special Judge(NDPS) Dhalai Judicial District, Ambassa invariably on or before 12.07.2025 and shall execute a fresh bail bond failing which necessary order of remand be passed and till his surrender before the Learned Special Judge he shall remain on interim bail as ordered earlier on previous bail bond. Before departing it is needed to be mentioned here that time and again this court informed the police authorities to ensure compliance of law regarding "grounds of arrest" in view of the principles of law laid down by the Hon'ble Apex Court. But there appears no significant improvement in this regard. So a copy of this order be communicated to the DGP of Police, Tripura for circulation of the same to all the Police Officers of the State of

Tripura for strict compliance of the order of the Hon'ble Supreme Court of India. The bail application is accordingly stands disposed of.

Further for modification of the condition of bail the accused may approach to the concerned court of Learned Special Judge(NDPS) Dhalai Judicial District, Ambassa and the Learned Special Judge considering the merit of the case and the report of the I.O. may consider relaxation of bail granted to the accused. In that case the accused-applicant shall not be required to approach before this High Court.

Send down the record of the Learned court below along with a copy of this order.

Returned back the CD to the I.O. through Learned Addl. P.P. with a copy of this order.

With this observation, this application stands disposed of.

JUDGE

**MOUMITA
DATTA**

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