

**HIGH COURT OF TRIPURA
AGARTALA**

B.A.No.43 of 2025

Sri Kartik Kumar Kundu

S/o: Lt. Haripada Kundu,
C/o: Dr. Shyamal Sarkar of Ramnagar Road No.05,
P.S.: West Agartala, P.O.: Ramnagar, PIN:799002,
Dist.: West Tripura.

----Applicant(s)

Versus

1. The State of Tripura

2. Sri Mitran Das,

S/o: Lt. Kishour Das, of: Mrinmoyee Apartment of
Ramnagar Road No.02, 1st Crossing, P.S.: West Agartala,
PIN: 799002, Dist.: West Tripura.

----Respondent(s)

For Applicant(s)	:	Mr. Subrata Sarkar, Sr. Adv. Mr. Arpan Jamatia, Adv.
For Respondent(s)	:	Mr. Raju Datta, P.P.

HON'BLE MR. JUSTICE BISWAJIT PALIT

Order

02/08/2025

This bail application under Section 483 read with Section 528 of BNSS, 2023 is filed for cancellation of pre-arrest bail granted to the accused-respondent namely, Sri Mitran Das in connection with West Agartala PS Case No.2025 WAG 034 under Sections 420/409/423/120(B) of IPC vide order dated 17.04.2025 passed by Learned Addl. Sessions Judge, Court No. 4, West Tripura, Agartala in connection with BA No.62 of 2025.

Heard Learned Senior Counsel, Mr. Subrata Sarkar assisted by Learned Counsel, Mr. Arpan Jamatia appearing on behalf of the de facto-complainant-cum-applicant. Also Heard Learned P.P., Mr. Raju Datta appearing on behalf of the respondent-State. None appears on behalf of the accused-respondent.

From the record it appears that vide order dated 19.06.2025 a direction was given to both the parties of this case to appear before this court. The de facto complainant-cum-applicant(hereinafter referred to as 'applicant') appeared but the accused-respondent did not appear before this court even after allowing several opportunities.

Today also, the accused-respondent did not appear before this court. So, the matter is taken up for hearing and decision in *absentia* of the accused-respondent.

At the time of hearing, Learned Senior Counsel for the applicant has drawn the attention of this court that the aforesaid case was registered on the basis of an F.I.R. laid by the informant, Sri Kartik Kumar Kundu to O/C West Agartala PS on 09.04.2025. The respondent-accused then preferred one anticipatory bail application bearing BA No.62 of 2025 before the Court of Learned Addl. Sessions Judge, Court No.4, West Tripura, Agartala. The present applicant filed objection to the said bail application but the Learned Trial Court misinterpreting or misconstruing the legal provisions granted pre-arrest bail to the accused-respondent causing prejudice to the present applicant. Hence, the applicant has filed the present bail application before this Court for cancellation of the bail granted to the accused-respondent. Learned Senior Counsel for the applicant submitted that the accused-respondent is a construction builder by profession and on 01.12.2022 he entered into a sale agreement with the applicant for sale of a flat for consideration money of Rs.37,00,000/- and he paid Rs.30,00,000/-. As per the said agreement the flat was supposed to be handed over to the applicant within a period of 1(one) year but the respondent-accused did not take any step for construction of the flat.

Being inquired, the accused-respondent informed that 60-70% work has been completed. After that, the applicant had sent a letter on 07.11.2024 to the accused-respondent to refund the money but he neither refunded the money nor handed over the possession of the proposed flat as per agreement to the applicant. Under such compelling circumstances the present case was filed. It was further submitted by Learned Senior Counsel that out of Rs.37,00,000/- the applicant, being a retired government employee gave him Rs.30,00,000/- i.e. the entire amount which he had received after retirement. But, the respondent-accused has defrauded and cheated him by not handing over the possession of the flat or refunding back the money paid by him. Even no construction has begun in accordance with the agreement. Learned Senior Counsel further submitted that the case was registered under Sections 420/409/423/120(B) of IPC but the Learned Trial Court came to the observation that Section 409 of IPC will not attract in this case and regarding Section 420 of IPC, relying upon the judgment of the Hon'ble Supreme Court of India in **Satinder Kuman Antil vs. Central Bureau of Investigation & Anr.**, reported in **2022 LiveLaw (SC) 577**, Learned Trial Court granted pre-arrest bail to the accused-respondent. Referring the same, Learned Senior Counsel first of all has drawn the attention of this court that considering the gravity of the offence, Sections 420 and 423 of IPC would come under the Scheduled Offences as per the Schedule, Part A provided in the Prevention of Money Laundering Act, 2002(for short, PMLA Act). Learned Senior Counsel submitted that in case of Scheduled Offence there is no scope to grant bail since it is an economic offence.

Learned Senior Counsel further drawn the attention of this court referring the judgment of Hon'ble Supreme Court of India in

Satender Kumar Antil vs. Central Bureau of Investigation & Anr.

reported in **(2022) 10 SCC 51** wherein in para No.2, Hon'ble the Apex Court made some categories in respect of types of offences. The relevant portion is reproduced hereunder:

"2. After allowing the application for intervention, an appropriate order was passed on 7-10-2021 [Satender Kumar Antil v. CBI, (2021) 10 SCC 773 : (2022) 1 SCC (Cri) 153] . The same is reproduced as under : (Satender Kumar Antil case [Satender Kumar Antil v. CBI, (2021) 10 SCC 773 : (2022) 1 SCC (Cri) 153] , SCC pp. 774-76, paras 2-11)

"2. We have been provided assistance both by Mr S.V. Raju, learned Additional Solicitor General and Mr Sidharth Luthra, learned Senior Counsel and there is broad unanimity in terms of the suggestions made by the learned ASG. In terms of the suggestions, the offences have been categorised and guidelines are sought to be laid down for grant of bail, without fettering the discretion of the courts concerned and keeping in mind the statutory provisions.

3. We are inclined to accept the guidelines and make them a part of the order of the Court for the benefit of the courts below. The guidelines are as under:

'Categories/Types of Offences

(A) Offences punishable with imprisonment of 7 years or less not falling in Categories B & D.

(B) Offences punishable with death, imprisonment for life, or imprisonment for more than 7 years.

(C) Offences punishable under Special Acts containing stringent provisions for bail like NDPS (Section 37), PMLA (Section 45), UAPA [Section 43-D(5)], Companies Act, [Section 212(6)], etc.

(D) Economic offences not covered by Special Acts."

Learned Senior Counsel submitted that the present case would come under category number (D) i.e., economic offences not covered by Special Acts but the Learned Trial Court relying upon category (A) granted pre-arrest bail to the accused-respondent. It was further submitted that in case of economic offence there is very least scope to grant any bail and in support of his submission Learned Senior Counsel relied upon another citation of the Hon'ble Supreme Court of

India in **P. Chidambaram vs. Directorate of Enforcement** reported in **(2019) 9 SCC 24** wherein in para Nos.74 and 75, Hon'ble the Apex Court observed as under:

"74. Ordinarily, arrest is a part of the process of the investigation intended to secure several purposes. There may be circumstances in which the accused may provide information leading to discovery of material facts and relevant information. Grant of anticipatory bail may hamper the investigation. Pre-arrest bail is to strike a balance between the individual's right to personal freedom and the right of the investigating agency to interrogate the accused as to the material so far collected and to collect more information which may lead to recovery of relevant information. In *State v. Anil Sharma* [*State v. Anil Sharma*, (1997) 7 SCC 187 : 1997 SCC (Cri) 1039] , the Supreme Court held as under: (SCC p. 189, para 6)

"6. We find force in the submission of CBI that custodial interrogation is qualitatively more elicitation-oriented than questioning a suspect who is well-ensconced with a favourable order under Section 438 of the Code. In a case like this, effective interrogation of a suspected person is of tremendous advantage in disinterring many useful informations and also materials which would have been concealed. Success in such interrogation would elude if the suspected person knows that he is well protected and insulated by a pre-arrest bail order during the time he is interrogated. Very often interrogation in such a condition would reduce to a mere ritual. The argument that the custodial interrogation is fraught with the danger of the person being subjected to third-degree methods need not be countenanced, for, such an argument can be advanced by all accused in all criminal cases. The Court has to presume that responsible police officers would conduct themselves in a responsible manner and that those entrusted with the task of disinterring offences would not conduct themselves as offenders."

75. Observing that the arrest is a part of the investigation intended to secure several purposes, in *Adri Dharan Das v. State of W.B.* [*Adri Dharan Das v. State of W.B.*, (2005) 4 SCC 303 : 2005 SCC (Cri) 933] , it was held as under: (SCC p. 313, para 19)

"19. Ordinarily, arrest is a part of the process of investigation intended to secure several purposes. The accused may have to be questioned in detail regarding various facets of motive, preparation, commission and aftermath of the crime and the connection of other persons, if any, in the crime. There may be circumstances in which the accused may provide information leading to discovery of material facts. It may be necessary to curtail his freedom in order to enable the investigation to proceed without hindrance and to protect witnesses and persons connected with the victim of the crime, to prevent his disappearance, to maintain law and order in the locality. For these or other reasons, arrest may become an inevitable part of the process of investigation. The legality of the proposed arrest cannot be gone into in an application under Section

438 of the Code. The role of the investigator is well defined and the jurisdictional scope of interference by the court in the process of investigation is limited. The court ordinarily will not interfere with the investigation of a crime or with the arrest of the accused in a cognizable offence. An interim order restraining arrest, if passed while dealing with an application under Section 438 of the Code will amount to interference in the investigation, which cannot, at any rate, be done under Section 438 of the Code."

Further, Learned Senior Counsel for the applicant referred para Nos.78 and 79 of the same judgment wherein Hon'ble the Apex Court observed as under:

"Economic offences

78. Power under Section 438 CrPC being an extraordinary remedy, has to be exercised sparingly; more so, in cases of economic offences. Economic offences stand as a different class as they affect the economic fabric of the society. In Directorate of Enforcement v. Ashok Kumar Jain [Directorate of Enforcement v. Ashok Kumar Jain, (1998) 2 SCC 105 : 1998 SCC (Cri) 510] , it was held that in economic offences, the accused is not entitled to anticipatory bail.

79. The learned Solicitor General submitted that the "scheduled offence" and "offence of money-laundering" are independent of each other and PMLA being a special enactment applicable to the offence of money-laundering is not a fit case for grant of anticipatory bail. The learned Solicitor General submitted that money-laundering being an economic offence committed with much planning and deliberate design poses a serious threat to the nation's economy and financial integrity and in order to unearth the laundering and trail of money, custodial interrogation of the appellant is necessary."

Referring the same, Learned Senior Counsel again submitted that there is no scope to grant bail in a case which falls under economic offence but here in the case at hand, the Learner Trial Court misinterpreted the guidelines laid down in the judgment of **Satender Kumar Antil (supra)** and granted pre-arrest bail. Learned Senior Counsel has further drawn the attention of this court that considering the nature and gravity of the offence and the conduct of the accused-respondent it is urgently required that the order dated 17.04.2025 delivered by Learner Trial Court needs to be interfered with because the accused-respondent not only cheated and deceived the

applicant but also by deceiving him the accused-respondent has taken the entire money which the applicant got after his retirement from the department. Now, the applicant has become homeless and is staying in a rented house. It was further submitted that although in the agreement it was stated by the accused-respondent that necessary permission was obtained from the municipal authority, but practically no such permission was taken by him before entering into agreement with the applicant, which also shows his fraudulent conduct to deceive a customer.

Learned P.P. appearing on behalf of the respondent-State submitted that the order dated 17.04.2025 passed by Learned Trial Court was not in accordance with law and no permission was obtained by the accused-respondent regarding construction of flat as per agreement.

I have heard detailed submission of Learned Senior Counsel for the applicant and Learned P.P. for the State-respondent and also perused the relevant prosecution papers. I have also gone through the order dated 17.04.2025 passed by Learned Trial Court.

It appears that at the time of passing of order dated 17.04.2025, Learned Trial Court based on the materials on record came to the observation that Section 409 of IPC would not attract in this case and in respect of Section 420 of IPC, Learned Trial Court came to the observation that Section 420 of IPC provides punishment for less than 7(seven) years which comes under the category (A) of the offence as mentioned in the case of **Satender Kumar Antil (supra)**. So, Learned Trial Court granted pre-arrest bail to the accused-respondent. However, after perusing the schedule as contained in the PMLA Act and also after going through the judgment of the Hon'ble

Supreme Court of India in the aforementioned case, it appears to this Court that the present case would fall under category (D) which attracts cases under economic offence and in Part A of the Schedule of PMLA Act, the relevant provisions of IPC are mentioned.

Further, from the judgment of Hon'ble Supreme Court in **P. Chidambaram(supra)**, it appears that in a case of this nature there is very least scope to pass any interim order restraining arrest of an accused person invoking the provision of Section 438 of Cr.P.C., which will amount to interference in the investigation. But here, in the case at hand, Learned Trial Court, by granting pre-arrest bail to the respondent-accused limited the scope of I.O. to proceed further with the investigation of this case. Situated thus, it appears to this court that the order passed by Learned Trial Court was not supported by any logical and legal interpretation and considering the nature and gravity of the offence, it appears that the Learned Trial Court misinterpreted the judgment passed in the case of **Satender Kumar Antil (supra)** and granted pre-arrest bail, which, in the considered opinion of this court, needs to be interfered with.

Furthermore, in this regard, Hon'ble the Supreme Court of India in **Y.S. Jagan Mohan Reddy vs. Central Bureau of Investigation** reported in **(2013) 7 SCC 439** in para Nos.34 and 35 observed as under:

"34. Economic offences constitute a class apart and need to be visited with a different approach in the matter of bail. The economic offences having deep-rooted conspiracies and involving huge loss of public funds need to be viewed seriously and considered as grave offences affecting the economy of the country as a whole and thereby posing serious threat to the financial health of the country.

35. While granting bail, the court has to keep in mind the nature of accusations, the nature of evidence in support thereof, the severity of the punishment which conviction will entail, the character of the accused, circumstances which are peculiar to the accused, reasonable possibility of

securing the presence of the accused at the trial, reasonable apprehension of the witnesses being tampered with, the larger interests of the public/State and other similar considerations.”

In **Dinesh Sharma vs. Emgee Cables and Communication Ltd. & Anr.**, reported in **2025 SCC OnLine SC 929**, Hon’ble the Apex Court in para Nos.23 and 24 observed as under:

“23. A profitable reference can be made to the case of **Parbatbhai Ahir v. State of Gujrat**, (2017) 9 SCC 641 wherein it was observed that economic offences by their very nature lie beyond the domain of mere dispute between private parties and the High Court would be justified in declining to quash where the offender is involved in an activity akin to a financial or economic fraud or misdemeanour. The consequences of the act complained of upon the financial or economic system will weigh in the balance. Thus, it can be concluded that economic offences by their very nature stand on a different footing than other offences and have wider ramifications. They constitute a class apart. Economic offences affect the economy of the country as a whole and pose a serious threat to the financial health of the country. If such offences are viewed lightly, the confidence and trust of the public will be shaken.

24. It is true that there is a growing tendency of parties to rope in their counterparts to harass and extract monetary transaction, it is the duty of the Court to consider the facts of each case, in its proper perspective and then to arrive at the conclusion as to whether the case warrants investigation or the proceedings are required to be quashed. The peculiar facts and circumstances of the present case warrants thorough investigation as there was a huge amount involved. As we have already stated that when the petitioner approached the High Court for quashing of the FIR, the investigation was at its initial stage and subsequent to filing of the present Special Leave Petition in this Court it seems that the investigation was concluded by filing the chargesheet.”

From the aforesaid references it appears that in a case of this nature, the Court has to keep in mind the nature of accusations, evidence, severity of the punishment and the character of the accused.

Here, in the case at hand, the accused-respondent deceived the applicant by receiving a huge amount of money from him in spite of knowing that he is a retired government employee and had given it to him in good faith that he would construct the flat and turn it over to him on time. But, the accused-respondent not only failed to keep his promise after receipt of money but he also defrauded the applicant by

entering into the agreement saying that he obtained permission from the authority for construction. However, factually no such permission was taken from the respective authority by him. Thus, it appears to this Court that the respondent-accused is not entitled to get the privilege of pre-arrest bail. According to this Court, the pre-arrest bail granted to the accused-respondent was not in accordance with law and considering the nature and gravity of offence the interference of this Court is required.

Accordingly, the order dated 17.04.2025 passed by Learned Addl. Sessions Judge, Court No.4, West Tripura, Agartala is hereby set aside and stands cancelled. The accused-respondent may surrender before the Learned Court of Jurisdictional Magistrate and may prefer bail, if he is so advised.

With this observation, the present bail application stands allowed and disposed of.

Send down the record of the Learned Trial Court along with a copy of this order. Return back the case diary to I.O. through Learned P.P. along with a copy of this order. Also a copy of this order be supplied to Learned Senior Counsel for the applicant.

JUDGE

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