

**HIGH COURT OF TRIPURA
AGARTALA
B.A.No.45 of 2025**

Bina Dhar Choudhury aged about 59 years,
Wife of Pradyut Dhar Choudhury, resident of
Usha Bajzar, Chhinaihani Airport,
Agartala, West Tripura.

---- Applicant(s)

On behalf of accused person

Shri Pradyut Dhar Choudhury,
S/o: Lt. Adhir Dhar Choudhury,
Resident of Ushabazar, P.S. Airport,
Agartala, Tripura West.

---- Accused Person(s)

Versus

The State of Tripura
Represented by the Secretary,
To the Department of Home,
New Secretariat Complex,
P.S.: N.C.C., District: West Tripura.

----Respondent(s)

For Applicant(s)	:	Mr. Debalay Bhattacharya, Sr. Adv. Mr. Soumyadeep Saha, Adv. Ms. Ayantika Chakraborty, Adv.
For Respondent(s)	:	Mr. Raju Datta, P.P. Mr. Rajib Saha, Addl. P.P. Mr. Bibhal Nandi Majumder, Special P.P. Mr. Sankar Lodh, Special P.P.

HON'BLE MR. JUSTICE BISWAJIT PALIT

Order

07/07/2025

Heard Learned Senior Counsel, Mr. Debalay Bhattacharya, assisted by Learned Counsel, Mr. Soumyadeep Saha appearing on behalf of the accused in Custody. Also heard Learned Special P.P, Mr. Bibhal Nandi Mujumdar along with Learned Special P.P., Mr. Sankar Lodh and Learned P.P., Mr. Raju Datta appearing on behalf of the State-respondent.

This bail application under Section 439 of Cr.P.C. is filed for releasing the accused person in custody on bail in connection with Airport PS Case No. 2024 ARP 037 under Sections 320/120B of IPC read with Section 27 of Arms Act corresponding to S.T. (T-1) 31 of 2025.

Taking part in the hearing, Learned Senior Counsel for the accused in custody has drawn the attention of this court that in this case, the main allegation of the prosecution was that the accused in custody made telephonic conversation with the principal accused namely, Raju Barman within the period with effect from 01.03.2024 to 30.04.2024 and excepting this allegation, no materials could be collected by the I.O. during investigation of this case. Referring the contents of the F.I.R., Learned Senior Counsel has drawn the attention of this court that in the F.I.R. dated 01.05.2024, laid by S.I. Srikanta Guha to O/C Airport PS, there was no allegation against the accused in custody that he participated in the commission of crime and furthermore, the accused person has been lodging in jail for more than 337 days and is suffering from different ailments. So, Learned Senior Counsel urged for releasing him on bail in any condition.

It is further submitted that initially the present accused was granted interim bail by Learned Sessions Judge, West Tripura, Agartala by order dated 11.11.2024 in connection with Bail Application No. 233 of 2024 but as he was suffering from illness, so, he could not surrender before the court within time so, he was taken into custody again. The present accused also approached this court and this court vide order dated 10.03.2025 in connection with BA No. 9 of 2025 was pleased to reject his bail application. It was further submitted that two more other accused persons namely, Uma Sarkar and Susmita Sarkar have been granted bail by Learned Sessions Judge. So, considering the nature of allegation against the accused in custody, Learned Senior Counsel has drawn the attention of this court that parity may also be applied in this case and referring the annexed documents in support of treatment of the accused person, Learned Senior Counsel urged this Court to consider the bail application of the accused person in any condition. Learned Senior Counsel relied upon one citation of the Hon'ble Supreme Court of India in **Ajit Singh vs. State of Chhattisgarh** reported

in **(2018) 14 SSC 286** wherein in para No. 4, Hon'ble the Apex Court observed as under:

"4. After investigation, final report under Section 173 CrPC has been filed against the appellant and four other persons on 19-10-2016. The case against the appellant is almost similar to that of other co-accused who have been enlarged [*Lal Bahadur Verma v. State of Chhattisgarh*, 2017 SCC OnLine Chh 1521] ' [*Dulal Chatterji v. State of Chhattisgarh*, 2017 SCC OnLine Chh 1520] on bail. The accused has been in custody for the past six-and-half months. No criminal antecedents have been reported against the appellant. We are of the view that it is just and proper to enlarge the appellant on bail subject to the following conditions:

1. The appellant shall not stay in the State of Chhattisgarh during the pendency of the case. He shall stay in Patna during the said period. However, he is permitted to come to the State of Chhattisgarh for attending the aforesaid case. He shall personally appear before the trial court on all the dates of hearing except under unavoidable circumstances.

2. Soon after release, he shall appear before the Senior Superintendent of Police, Patna, and notify his address at Patna to the SSP, Patna. The SSP, Patna, shall intimate him the jurisdictional police station for his attendance once in a week on every Sunday between 9.00 a.m. to 5.00 p.m.

3. The appellant shall not tamper with the evidence during the trial in any manner. He shall not pressurise or intimidate the prosecution witnesses. The appellant shall execute a personal bond of rupees one lakh with two sureties for the like sum to the satisfaction of the trial court."

Relying upon the same, Learned Senior Counsel urged for releasing the accused on bail.

On the other hand, Learned Special P.P., Mr. Majumdar, assisted by Learned Special P.P., Mr. Lodh and Learned P.P., Mr. Raju Datta strongly opposed the bail application and submitted that earlier when the accused was granted interim bail, he did not surrender before the Learned Court within time and thereafter, he approached to a co-ordinate bench of this court for granting pre-arrest bail and this court by order dated 11.02.2025 in AB No. 10 of 2025 rejected his bail application. Furthermore, Learned Special P.P., Mr. Majumder submitted that regarding the principle of parity, this court at the time of disposal of BA No. 9 of 2025 by order dated 10.03.2025, elaborately discussed all the grounds and rejected the bail application. As such, in absence of any new grounds at this stage, there is

no scope to entertain the present bail application. Learned Special P.P., Mr. Lodh appearing on behalf of the State-respondent in support of his contention relied upon one citation of the Hon'ble Supreme Court of India in **Kalyan Chandra Sarkar vs. Rajesh Ranjan alias Pappu Yadav & Anr.**, reported in **(2005) 2 SCC 42** wherein in para Nos. 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."

Learned Special P.P., Mr. Lodh also relied upon another citation, of the Hon'ble Supreme Court of India in **LT. Col. Prasad Shrikant Purohit vs. State of Maharashtra**, reported in **(2018) 11 SCC 458** wherein in para No. 30, Hon'ble the Apex Court observed as under;

"30. Before concluding, we must note that though an accused has a right to make successive applications for grant of bail, the court entertaining such subsequent bail applications has a duty to consider the reasons and grounds on which the earlier bail applications were rejected. In such cases, the court also has a duty to record the fresh grounds which persuade it to take a view different from the one taken in the earlier applications."

Referring the same, Learned Special P.P., Mr. Lodh has drawn the attention of this court that as the accused in custody has failed to

project any new grounds in support of his bail application, so, the same is not maintainable. Furthermore, regarding involvement of the accused with the alleged crime, Learned Special P.P. submitted that the present accused was the President of Bharat Ratna Sangha till formation of new committee in 2024, when he was removed from his post. After formation of new club committee, though, he was relieved from the post of President, he was closely monitoring each and every development of the club and as his relinquishment from the post of President was a social stigma to him. So, out of his mental agony a strained relation cropped up in between the old and the new committee and ultimately this alleged occurrence took place. The present accused was monitoring the entire plan and made constant telephonic calls with one of the principal accused namely, Raju Barman. So, considering the nature of the allegation, if at this stage he is released on bail, then there is every chance of tempering the witnesses of the prosecution. It was further submitted that due to non-cooperation of the accused persons in custody, the Learned Trial Court is also not in a position to proceed with the case. However, there was no lacuna from the side of the prosecution to drag the case.

Learned Special P.P. also relied upon another citation of the High Court of Gujarat in **Adeel Salim Nurani vs. State of Gujarat**[**Criminal Misc. Application No.7240 of 2021** decided on **24.11.2021**] wherein in para No. 18, the High Court of Gujarat observed as under:

"18. The telephone call details of the present applicant accused with the prime accused was revealed and in all, the present applicant accused has made at least 242 telephone calls to various numbers of the prime accused and it proves the active connection of the present applicant accused with the prime accused."

Relying upon the same, Learned Special P.P. submitted that considering the nature of the allegation, at this stage, there is no scope to release the accused on bail and urged for rejection of the bail application.

In this case, prosecution was set into motion on the basis of an F.I.R. laid by one S.I. Srikanta Guha of Airport PS to O/C Airport PS alleging *inter alia* that on 30.04.2024 at about 2025 hours one telephonic information was received that a person was shot at Salbagan Bazaar, Hatipara under Airport PS. Accordingly, the PS officers along with staff rushed to the spot and found one dead body lying by the side of the road with bullet wounds and immediately with the help of local public, the body was shifted to ILS Hospital wherein the attending doctor declared him dead and the body was identified as of one Durga Prasanna Deb. From the local enquiry, it was learnt that at about 2010 hours, one miscreant shot upon Durga Prasanna Deb while he was sitting in a vehicle bearing registration No. TR 06-A 0745 and the same was parked at Hatipara in front of one medicine shop of Sri Bikash Das of Salbagan BSF Para and on receipt of bullet injury, he fell down on the road from the vehicle and the miscreants fled away. Later on, some kin relatives of the deceased arrived at the hospital when it came to their knowledge that one Raju Barman, Rakesh Barman, Debabrata Barman, Biman Das and Pradyut Dhar Choudhury and some others made criminal conspiracy and were involved in the commission of offence. Accordingly, on the basis of that F.I.R., the case was registered and after completion of investigation, the I.O. has laid charge sheet against the present accused along with others. By this time, the case has been committed to the Court of Learned Sessions Judge, West Tripura, Agartala and the same is now pending for disposal before the Court of Learned Addl. Sessions Judge, Court No.4, West Tripura, Agartala. It appears that the case is at the stage of production of the accused/ supplying copy.

It is the admitted position that earlier the present accused was granted interim bail but as he could not surrender so, he was again taken into custody and in between he approached for pre-arrest bail that was rejected. He also approached this Court for granting him bail which was also rejected on the ground of parity.

So, after hearing both the sides and considering the relevant prosecution papers and the materials on record, it appears to this court that the accused at this stage could not raise any new grounds to consider his bail application and the citations referred by Learned Special P.P. representing the prosecution appears to be very much relevant for decision of this case.

So, considering the nature and gravity of the offense, the bail application filed at this stage stands rejected. The accused is to remain in J.C. as before.

Since the accused persons along with others are lodging in custody, so, it is directed that the Learned Trial Court shall take all endeavour to dispose of the case giving top priority.

Send down the record of the Learned Trial Court along with a copy of this order. Also return back the CD to IO through Learned P.P along with a copy of this order.

JUDGE



Snigdha

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