

**HIGH COURT OF TRIPURA
AGARTALA
B.A.No.63 of 2025**

Sri Sanjit Chowdhury,
S/o: Lt. Lal Mohan Chowdhury,
Of: Chalitabari, P.S. Teliamura,
Dist: Khowai, Tripura.

----Applicant(s)

Versus

1. The State of Tripura
2. Sri Bipul Sarkar,
S/o: Sri Bidhu Bhusan Sarkar,
Of: Chalitabari, P.S. Teliamura,
Dist: Khowai, Tripura.
3. Sri Liman Sarkar,
S/o: Sri Manoranjan Sarkar,
Of: Chalitabari, P.S. Teliamura,
Dist: Khowai, Tripura.

----Respondent(s)

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

HON'BLE MR. JUSTICE BISWAJIT PALIT

Order

19/09/2025

This bail application under Section 483 read with Section 528 of BNSS, 2023 is filed for cancellation of the pre-arrest bail granted to the respondent-accused persons by Learned Addl. Sessions Judge, Khowai Tripura by order dated 31.05.2025 and 16.06.2025 in connection with B.A. No.15 of 2025 and B.A. No.17 of 2025 which arose out of Teliamura PS Case No.2025/TLM/039 under Sections 326(g)/351(3) of BNS, 2023.

Heard Learned Senior Counsel, Mr. Subrata Sarkar assisted by Learned Counsel, Mr. Kabrabam Dhirendra Singha appearing on

behalf of the applicant-victim i.e. the informant. Also heard Learned Addl. P.P., Mr. Rajib Saha appearing on behalf of the respondent-State and Learned Counsel, Mr. Janardhan Bhattacharjee appearing on behalf of the respondent Nos.2 and 3 i.e. the respondent-accused persons.

At the time of hearing, Learned Senior Counsel for the applicant first of all drawn the attention of this court referring the contents of the F.I.R. and submitted that in the F.I.R there were direct allegations against the respondent-accused persons showing their implication with the alleged offence but the Learned Trial Court by the aforesaid orders dated 31.05.2025 and 16.06.2025 granted pre-arrest bail to the respondent-accused persons which caused serious prejudice to the applicant. It was further submitted by Learned Senior Counsel that against the respondent-accused persons, another case was filed by the younger brother of the informant namely, Ajit Chowdhury and in that case charge-sheet is submitted against the respondent-accused persons and now the case is pending for disposal before the Court of Learned Jurisdictional Magistrate vide PRC (SP) No.45 of 2020 (arose out of TLM GRPS case No.04 of 2019 under Sections 325/341/382/34 of IPC) but the Learned Addl. Sessions Judge at the time of consideration of the pre-arrest bail to the respondent-accused persons failed to appreciate the materials on record and in absence of application of proper mind granted pre-arrest bail to the respondent-accused persons for which the interference of this Court is required. So, Learned Senior Counsel urged for cancellation of the pre-arrest bail granted to the respondent- accused persons by the Learned Addl. Sessions Judge, Khowai Tripura.

To counter the submission made by Learned Senior Counsel for the applicant, Learned Counsel, Mr. Janardhan Bhattacharjee for

the respondent-accused persons drawn the attention of this Court that the present bail application is not filed by the State-respondent rather the same has been filed by the applicant i.e. the informant who has got no *locus standi* to file the said application. Learned Counsel further submitted that there was no report of the fire service authority before lodging of the F.I.R. and since it was a cognizable offence even the fire service authority also could file the F.I.R. It was further submitted by Learned Counsel for the respondent-accused persons that there was a long delay in lodging the F.I.R. which the prosecution has failed to explain in this case and the Learned Addl. Sessions Judge at the time of consideration of the pre arrest bail application perused the materials on record and the evidence collected by I.O. in course of investigation and by reasoned and detailed order, with stringent conditions granted pre-arrest bail to the respondent-accused persons. Learned Counsel submitted that the respondent-accused persons are complying with the orders of the Learned Court below and after granting them bail there was no adverse report from the side of the I.O. that the respondent-accused persons have violated the conditions of bail. Learned counsel also submitted that bail once granted cannot be cancelled in a routine manner. For cancellation of bail, sufficient materials should be placed before the Court for drawing inference that the order of bail was unreasoned and perverse, which the present applicant has failed to project. So, in summing up, Learned Counsel, Mr. J. Bhattacharjee countering the submissions made by Learned senior Counsel for the applicant submitted that there was no infirmity in the orders passed by Learned Addl. Sessions Judge and urged for dismissal of the present application filed on behalf of the applicant under Section 483 read with Section 528 of BNSS, 2023. Learned Counsel for the respondent-

accused persons also referred one citation of the Hon'ble Supreme Court of India in **Rizwan Akbar Hussain Syed vs. Mehmood Hussain & Anr.**, reported in **(2007) 10 SCC 368**, wherein in para No.7 Hon'ble the Apex Court observed as under:

"7. Learned Single Judge seems to have taken exception for non-appearance of the appellant at the time of hearing of the application for cancellation of bail. The reason for non-appearance has been explained by the appellant. It is true that in the order granting bail, there was no specific stipulation of any condition. In fact, in the petition for cancellation of bail, Respondent 1 has stated that while granting bail, no conditions were imposed. In that sense, the appellant is right that the High Court has erroneously observed that the conditions for grant of bail were violated. There was no specific condition imposed and, that was one of the grievances of Respondent 1. But learned counsel for the respondents rightly submitted that even if no condition is specifically stipulated, the accused, while on bail, is not supposed to tamper with evidence. There is no specific observation in this regard in the impugned order. Cancellation of bail should not be done in a routine manner. Where it appears to the superior court that the court granting bail acted on irrelevant materials or there was non-application of mind or where court does not take note of any statutory bar to grant of bail, order for cancellation of bail can be made. These circumstances are illustrative and not exhaustive. The court considering the application for cancellation of bail has to take note of all relevant aspects."

Relying upon the same, Learned Counsel drawn the attention of this Court that in this case the applicant has failed to satisfy the Court that there was non-application of mind on the part of Learned Addl. Sessions Judge in granting pre-arrest bail to the respondent-accused persons. Situated thus, in view of the law laid down by the Hon'ble Apex Court there is no scope to allow the application filed by the applicant.

On the other hand, Learned Senior Counsel for the applicant at the time of hearing has drawn the attention of this Court referring one citation of the Hon'ble Supreme Court of India in **Ajwar vs. Waseem & Anr.** along with other connected matters reported in **(2024) 10 SCC 768**, wherein in para No.27, Hon'ble the Apex Court observed as under:

"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.* [*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 [*Dolat Ram v. State of Haryana*, (1995) 1 SCC 349 : 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.”

Referring the same, Learned Senior Counsel drawn the attention of this Court that the orders passed by Learned Addl. Sessions Judge are perverse. As such, the interference of the Court is required.

I have heard detailed submissions of both the sides.

This present case was registered on the basis of an F.I.R. laid by one Sanjit Chowdhury, informant to O/C Teliamura PS on 22.04.2025 alleging *inter alia* that on 21.04.2025 at night around 1:30 a.m. two persons namely, Bipul Sarkar and Liman Sarkar poured petrol into his homestead at Chalitabari and set it on fire. He could identify the accused persons by electric light while opening the door when they were escaping through the western gate of the house by breaking the fence. There were few more people with them and he would be able to identify them if he could see them. Moreso, they had a sharp cutting Dah, iron rod and their intention was to kill them. While shouting, the

informant immediately took his mother, Smt. Sona Basi Chowdhury out of the house and hearing their shouting and screaming the members of the house along with the locals came and tried to put out the fire. Seeing the people coming, the accused fled away. After sometime, fire service personnel came and police also arrived at the spot and they tried to control the fire but they could not save his house and due to the fire they sustained loss of Rs.20,00,000/-. It was further submitted that previously a case was pending in the Court of Khowai in the name of the two accused persons vide Case No.PRC(SP) 45/2020 and for withdrawal of the case the accused persons had been pressurizing his family members for a month and threatened them over phone to withdraw the same otherwise, they would kill them and set fire to their house. On 19.04.2025 the accused again threatened over mobile phone from SIM No.9612758423 to his SIM No.9774754881. This is the sum and substance of the F.I.R. On the basis of the F.I.R. laid by the informant, the O/C of the concerned PS endorsed the matter to one Women Sub-Inspector for preliminary inquiry as required under Section 173 of BNSS, 2023.

Learned Addl. P.P., Mr. Rajib Saha at the time of hearing submitted that in this case, by this time, the I.O. has completed investigation and laid charge-sheet against the respondent-accused persons.

I have seen the orders passed by Learned Addl. Sessions Judge, Khowai Tripura. From the orders it appears to me that Learned Addl. Sessions Judge at the time of passing of orders after going through the relevant prosecution papers came to the observation that there was no direct role of the respondent-accused persons for setting fire in the house of the informant as the informant only stated that on

21.04.2025 night, the homestead of the informant was set on fire by some miscreants and out of them that time he could identify the respondent-accused persons through the electric light who were fleeing away towards western side after breaking the bamboo fencing of the informant. In both the orders passed by Learned Addl. Sessions almost similar observation was made.

I have also perused the Case Diary. The case is now pending for adjudication before the concerned Court.

It is the settled position of law that once the bail is granted that should not be cancelled in a routine manner. Surprisingly, in this case at the time of hearing Learned Senior counsel for the applicant failed to satisfy the Court that the respondent-accused persons have violated the conditions of bail. Further, no step was taken by the informant to the concerned PS that the respondent-accused persons have violated the order of the Learned Court below. In that case, the I.O. also could place some materials about the anticipation of the respondent-accused persons showing their involvement but no step was taken in this regard by the applicant or the I.O. Rather the applicant directly approached this Court challenging the orders of the Learned Addl. Sessions Judge, Khawai.

From the materials on record it appears that at the time of passing orders of pre-arrest bail Learned Addl. Sessions Judge considered everything and thereafter granted them pre-arrest bail. There is no adverse report against them that they have violated the conditions of bail. It is also on record that another case is pending against the respondent-accused persons which was filed by the brother of the informant. Each case will proceed according to its own merit. The pendency of another case against the respondent-accused persons

cannot be a ground for cancellation of pre-arrest bail granted to them by the Court of Learned Addl. Sessions Judge, Khowai. Here, in the case at hand, after hearing both the sides, it appears to this Court that the applicant at the time of hearing failed to show any satisfactory grounds to this Court to interfere with the order of Learned Addl. Sessions Judge, Khowai rather after perusal of the orders it appears that the Learned Addl. Sessions Judge after considering all the factors, by well reasoned order, granted pre-arrest bail to the respondent-accused persons.

Situated thus, at this stage I do not find any scope to interfere with the orders passed by Learned Addl. Sessions Judge. Accordingly, the application filed by the applicant under Section 483 read with Section 528 of BNSS, 2023 stands rejected being devoid of merit.

With this observation, the present bail application stands 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 for information. Also a copy of this order be supplied to Learned Counsel for the respondent accused persons.

JUDGE

Snigdha

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