

**HIGH COURT OF TRIPURA
AGARTALA**

B.A.No.93 of 2025

Smt. Jyoti Rani Banik,

W/o: Late Dhirendra Chandra Banik,
Resident of: Rajib Chowmuhani, A.D. Nagar
Road No.14, Badharghat, P.O.: Badharghat,
P.S.: Amtali, District: West Tripura.

---- Applicant (s)

On behalf of-

1. Sri Dilip Banik @ Suman,

S/o: Late Dhirendra Chandra Banik,
Resident of: Rajib Chowmuhani Road No.14,
P.O.: Badharghat, P.S.: Amtali,
District: West Tripura.

2. Sri Dipen Banik,

S/o: Late Sri Dhirendra Chandra Banik,
Resident of: A.D. Nagar Road No.14,
Rajib Chowmuhani, P.O.: Badharghat,
P.S.: Amtali, District: West Tripura.

3. Sri Jayanta Debnath,

S/o: Sri Rajani Debnath,
Resident of: A.D. Nagar Road No.14,
Chowrangi Para, P.S.: Amtali,
District: West Tripura.

---- Accused Person (s)

Versus

The State of Tripura

----Respondent(s)

Along with

B.A.No.96 of 2025

Smt. Lipa Das (Sen),

W/o: Sri Santanu Sen @ Rupan, aged about 32 years,
Resident of A.D. Nagar Road No.14, Rajib Chowmohani,
P.O.: S.D. Mission, P.S.: Amtali, Agartala,
District: West Tripura.

---- Applicant (s)

Sri Santanu Sen @ Rupan,

S/o: Sri Swapan Kumar Sen,
Aged about 39 years,
Resident of A.D. Nagar Road No.14,
Rajib Chowmohani, P.O.: S.D. Mission,
P.S.: Amtali, Agartala, District: West Tripura.

The accused person being lodged in judicial custody,
the present petition is preferred and presented
by the wife of accused person.

----- Accused Person (s)

Versus

The State of Tripura

-----Respondent(s)

In BA No.93 of 2025

For Applicant (s) : Mr. Ratan Datta, Adv.
Mr. Ankan Tilak Paul, Adv.
For Respondent(s) : Mr. Rajib Saha, Addl. P.P.

In BA No.96 of 2025

For Applicant (s) : Mr. Sankar Lodh, Adv.
For Respondent(s) : Mr. Rajib Saha, Addl. P.P.

HON'BLE MR. JUSTICE BISWAJIT PALIT

Order

28/10/2025

Heard Learned Counsel, Mr. Ratan Datta appearing on behalf of the applicants-accused-in-custody namely, Sri Dilip Banik alias Suman, Sri Dipen Banik, and Jayanta Debnath in connection with B.A. No. 93 of 2025 and also heard Learned Counsel, Mr. S. Lodh appearing on behalf of the accused-in-custody namely Sri Santanu Sen alias Rupan in connection with B.A. No.96 of 2025. Further, heard Learned Additional P.P., Mr. Rajib Saha appearing on behalf of the State-respondent. Both these bail applications have been filed under Section 483 of BNSS, 2023 for granting bail to the aforesaid accused persons in custody.

At the time of hearing, Learned Counsel, Mr. Ratan Datta appearing on behalf of the accused persons-in-custody first of all drawn the attention of the Court that on the basis of an FIR laid by one Badal Saha this case was registered against the aforesaid accused persons and two others. The accused Papan Chakraborty and Piklu Sen alias Suman are presently on bail and

the other accused persons are in custody. It is further submitted by Learned Counsel, Mr. Datta that during investigation the aforesaid accused persons surrendered before the Court and they were granted bail, but thereafter, challenging their bail the State of Tripura preferred an application under Section 483(3) read with Section 528 of BNSS for cancellation of the order of bail dated 07.01.2025 passed by Learned Additional Sessions Judge, Court No.2, West Tripura, Agartala in connection with ST(T-1)-03 of 2025 and this Court after hearing both the sides by order dated 23.06.2025 passed in B.A. No.12 of 2025 cancelled the bail granted to the accused persons-in-custody namely Santanu Sen alias Rupan, Jayanta Debnath, Dilip Banik alias Suman, Dipen Banik alias Kenchu and since from the month of July they are lodging in custody. It was further submitted that before the Learned Trial Court the petition was moved for discharging accused Papan Chakraborty under Section 227 of Cr.P.C. corresponding to Section 250 of BNSS but the Learned Trial Court without proper application of mind has rejected the same. It was also submitted that in this case, supplementary chargesheet was submitted by I.O. and the Learned Trial Court by order dated 01.09.2025 ordered for supplying supplementary copy of chargesheet to the accused persons but that was not complied with and surprisingly, without furnishing the copy of supplementary chargesheet by order dated 12.09.2025 Learned Trial Court mechanically framed charge against all the accused persons and more interestingly, on that date no calendar was fixed, rather after a considerable long period, Learned Trial Court

has fixed the date for fixing of calendar on 29.11.2025 which was not permissible in the eye of law. So, Learned Counsel urged for granting bail to all the accused persons stating that they are all family persons and languishing in jail without any valid cause.

Further, Learned Counsel Mr. S. Lodh appearing on behalf of accused, Santanu Sen alias Rupan also reiterated the same submission and further submitted that the copies of supplementary charge-sheet were not supplied to the accused persons by the Learned Trial Court and without supplying the copy charge has been framed by order dated 12.09.2025 which has caused injustice to the accused persons-in-custody and considering the long incarceration of the accused persons-in-custody Learned Counsel also urged for releasing his accused on bail in any condition.

Learned Counsel, Mr. Datta at the time of hearing relied upon one citation of the Hon'ble Supreme Court of India in **Manish Sisodia vs. Directorate of Enforcement** reported in **(2024) 12 SCC 660**, wherein in para Nos.47, 50, 51 and 52, Hon'ble the Apex Court observed as under:

"47. We find that, on account of a long period of incarceration running for around 17 months and the trial even not having been commenced, the appellant has been deprived of his right to speedy trial.

50. The Court observed thus: (Javed Gulam Nabi Shaikh case [Javed Gulam Nabi Shaikh v. State of Maharashtra, (2024) 9 SCC 813 : (2025) 1 SCC (Cri) 222] , SCC p. 820, para 17)

"17. If the State or any prosecuting agency including the court concerned has no wherewithal to provide or protect the fundamental right of an accused to have a speedy trial as enshrined under Article 21 of the Constitution then the State or any other prosecuting agency should not oppose the plea for bail on the ground that the crime committed is serious. Article 21 of the Constitution applies irrespective of the nature of the crime."

51. The Court also reproduced the observations made in Gudikanti Narasimhulu [Gudikanti Narasimhulu v. High Court of A.P., (1978) 1 SCC 240 : 1978 SCC (Cri) 115] , which read thus: (Javed Gulam Nabi Shaikh case [Javed Gulam Nabi Shaikh v. State of Maharashtra, (2024) 9 SCC 813 : (2025) 1 SCC (Cri) 222] , SCC p. 816, para 8)

"8. In the aforesaid context, we may remind the trial courts and the High Courts of what came to be observed by this Court in Gudikanti Narasimhulu v. High Court of A.P. [Gudikanti Narasimhulu v. High Court of A.P., (1978) 1 SCC 240 : 1978 SCC (Cri) 115] We quote (SCC p. 243, para 5):

'5. ... What is often forgotten, and therefore warrants reminder, is the object to keep a person in judicial custody pending trial or disposal of an appeal. Lord Russel, C.J., said [R. v. Rose [R. v. Rose, (1898) 18 Cox CC 717]]:

"I observe that in this case bail was refused for the prisoner. It cannot be too strongly impressed on the magistracy of the country that bail is not to be withheld as a punishment, but that the requirements as to bail are merely to secure the attendance of the prisoner at trial." "

52. The Court in Javed Gulam Nabi Shaikh case [Javed Gulam Nabi Shaikh v. State of Maharashtra, (2024) 9 SCC 813 : (2025) 1 SCC (Cri) 222] further observed that, over a period of time, the trial courts and the High Courts have forgotten a very well-settled principle of law that bail is not to be withheld as a punishment. From our experience, we can say that it appears that the trial courts and the High Courts attempt to play safe in matters of grant of bail. The principle that bail is a rule and refusal is an exception is, at times, followed in breach. On account of non-grant of bail even in straightforward open-and-shut cases, this Court is flooded with huge number of bail petitions thereby adding to the huge pendency. It is high time that the trial courts and the High Courts should recognise the principle that "bail is rule and jail is exception".

Again, Learned Counsel referred another citation of the Hon'ble Supreme Court in **Javed Gulam Nabi Shaikh vs. State of Maharashtra & Anr.** reported in **(2024) 9 SCC 813** wherein in para Nos.16, 17, 18 & 19 Hon'ble the Apex Court observed as under:

"16. Criminals are not born but made. The human potential in everyone is good and so, never write off any criminal as beyond redemption. This humanist fundamental is often missed when dealing with delinquents, juvenile and adult. Indeed, every saint has a past and every sinner a future. When a crime is committed, a variety of factors is responsible for making the offender commit the crime. Those factors may be social and economic, may be, the

result of value erosion or parental neglect; may be, because of the stress of circumstances, or the manifestation of temptations in a milieu of affluence contrasted with indigence or other privations.

17. If the State or any prosecuting agency including the court concerned has no wherewithal to provide or protect the fundamental right of an accused to have a speedy trial as enshrined under Article 21 of the Constitution then the State or any other prosecuting agency should not oppose the plea for bail on the ground that the crime committed is serious. Article 21 of the Constitution applies irrespective of the nature of the crime.

18. We may hasten to add that the petitioner is still an accused; not a convict. The over-arching postulate of criminal jurisprudence that an accused is presumed to be innocent until proven guilty cannot be brushed aside lightly, howsoever stringent the penal law may be.

19. We are convinced that the manner in which the prosecuting agency as well as the Court have proceeded, the right of the accused to have a speedy trial could be said to have been infringed thereby violating Article 21 of the Constitution."

Further, Learned Counsel referred another citation of the Hon'ble Supreme Court of India in **Arvind Kejriwal vs. Central Bureau of Investigation** reported in **2024 SCC OnLine SC 2550**, wherein in para Nos.38 & 39 Hon'ble the Apex Court observed as under:

"38. This Court in *Gudikanti Narasimhulu v. Public Prosecutor* (1978) 1 SCC 240), had highlighted that bail is not to be withheld as a punishment. The requirement as to bail is merely to secure the attendance of the prisoner at trial. This Court in *Manish Sisodia* referred to and relied upon the aforesaid decision and reiterated the salutary principle that bail is the rule and jail is the exception. This Court has observed that even in straightforward open and shut cases, bail is not being granted by the trial courts and by the High Courts. It has been held as under:

53. The Court further observed that, over a period of time, the trial courts and the High Courts have forgotten a very well-settled principle of law that bail is not to be withheld as a punishment. From our experience, we can say that it appears that the trial courts and the High Courts attempt to play safe in matters of grant of bail. The principle that bail is a rule and refusal is an exception is, at times, followed in breach. On account of non-grant of bail even in straight forward open and shut cases, this Court is flooded with huge number of bail petitions thereby adding to the huge pendency. It is high time that the trial courts and the High Courts should recognize the principle that "bail is rule and jail is exception".

39. Bail jurisprudence is a facet of a civilised criminal justice system. An accused is innocent until proven guilty by a competent court following the due process. Hence,

there is presumption of innocence. Therefore, this Court has been reiterating again and again the salutary principle that bail is the rule and jail is the exception. As such, the courts at all levels must ensure that the process leading to and including the trial does not end up becoming the punishment itself."

Referring all those citations, Learned Counsel, Mr. Datta drawn the attention of the Court that on bare perusal of the record, it will appear that the Learned Trial Court without application of proper mind dealt with the case and for that the accused persons are unnecessarily languishing in jail and urged for releasing the accused persons on bail in any condition in view of the principles of law laid down by the Hon'ble Apex Court in the aforenoted cases.

On the other hand, Learned Addl. P.P., Mr. R. Saha appearing on behalf of the State-respondent strongly opposed the bail application filed by the accused persons-in-custody and submitted that all though initially bail was granted by the Learned Trial Court and thereafter, the State challenged the bail granted to the accused persons and this Court after elaborate hearing of both the sides by order dated 23.06.2025 cancelled the bail granted to the present accused persons-in-custody and confirmed the bail granted to the rest two accused persons, namely, Sri Piklu Sen alias Suman and Sri Papan Chakraborty with certain observation and since in this case charge has been framed, so, the matter may be remanded back to the Learned Trial Court with a direction to dispose of the case ensuring supplying copies of the supplementary chargesheet with further direction to dispose of the case giving top priority on the ground that the accused persons are languishing in jail. It was also submitted that there are direct

incriminating materials against all the accused persons-in-custody showing their implication with the alleged offence and as such chargesheet was submitted against them and the Learned Trial Court by the order dated 12.09.2025 framed charge against all of them under Section 127(1)/118(2)/109/3(6) of BNS, 2023 and if at this stage they are released on bail then the trial of the case will be hampered and urged for dismissal of the bail application. It was further submitted by Learned Addl. P.P. that the order dated 23.06.2025 passed by this Court in B.A. No.12 of 2025 by this time has attained finality and the accused persons-in-custody did not challenge the said order to any other appropriate forum.

Considered.

In the case at hand, the prosecution was set into motion that on the basis of an FIR laid by one Badal Saha to O/C Amtali P.S. alleging interalia that on the day of Bishwakarma Puja, after watching Bishwakarma Puja, his son Subankar Saha was returning back to home alongwith his friend by riding his scooty in the late night and when said Subankar and his friends reached in between Loknath and Rajib Chowmuhani, that time two groups were involved in quarrel with each other. Suddenly, persons of one of the groups attacked his son with deadly weapons from the front and cut his face, mouth and throat, resulting which his son sustained severe bleeding injuries on his person and fell down on the earth and his accompanied friends were also tried to rescue his son and further, they also sustained injury. Immediately, thereafter, his son was referred to Hapania Hospital and from

there he was further referred to GBP Hospital and from the report of x-ray, it appears that his son sustained fatal injuries. On the basis of the said FIR, the O/C, Amtali P.S. on 18.09.2024 at about 1325 hours registered Amtali P.S. case No.118 of 2024 under Section 127(1)/118(2)/109/3(6) of BNS, 2023 and in course of investigation the I.O. produced accused Papan Chakraborty before the Court on 19.09.2024, accused Dilip Banik and Dipen Banik surrendered before the Court of Learned Jurisdictional Magistrate on 25.09.2024. Accused Jayanta Debnath and Santanu Sen alias Rupan were produced before the Court on 26.09.2024 and accused Suman Sen alias Piklu Sen surrendered before the Court of Learned Jurisdictional Magistrate on 30.09.2024 and after completion of investigation IO submitted charge-sheet within time and accordingly, by order dated 13.12.2024 Learned CJM took cognizance of offence against all the accused persons and thereafter in due course of time the case was committed to the Court of Sessions for holding trial of all the accused persons. As already stated challenging the order of bail granted to all the accused persons by the Learned Trial Court State challenged the same before this Court and this Court by order dated 23.06.2025 in B.A. No.12 of 2024 cancelled the bail granted to the accused namely Santanu Sen alias Rupan, Jayanta Debnath, Dilip Banik alias Suman and Dipan Banik alias Kenchu and confirmed the bail granted to the accused Piklu Sen alias Suman and Sri Papon Chakraborty after detailed hearing of both the sides and also after perusal of the materials collected by IO during investigation in the

Case Diary and that order still stands good. Now the case is pending for trial before the Learned Trial Court.

I have also gone through the record of the Learned Trial Court. It appears that by order dated 12.09.2025 Learned Trial Court has framed charges against all the accused persons of this case and fixed the next date on 29.11.2025 for production of accused persons from J/C and for making calendar. From the said order, it appears that Learned Trial Court also rejected the discharge application filed by one of the accused Sri Papon Chakraborty. It is surprising that on that date i.e. on 12.09.2025 Learned Trial Court could fix the calendar of this case or on the following day also Learned Trial Court could fix the calendar of the case for recording evidence of prosecution witnesses but without fixing any calendar Learned Trial Court has deferred the matter till 29.11.2025 which in the considered opinion of this Court was not proper and this type of practice should be stopped henceforth. It is always to be kept in mind that the accused persons are lodging in jail and they have not yet been convicted by the Learned Trial Court and trial is to be conducted accordingly at an earliest for every proper and fair justice.

It is also on record that although by order dated 01.09.2025 Learned Trial Court ordered for supplying the copy of the supplementary chargesheet but as submitted by Learned Counsel for the accused persons-in-custody, the same has not been supplied to them. It is the duty of the Learned Trial Court to ensure supply of copies of chargesheet to the accused persons or

to their engaged Learned Counsels under Section 207 of Cr.P.C. corresponding to Section 230 of BNSS. Without supplying of the same it is quite natural that it would be difficult on the part of the accused persons to conduct their defence properly. At the time of hearing, Learned Counsels for the accused persons-in-custody submitted that the electronic evidence and other relevant documents including the report of SFSL were not provided to them. Accordingly, it is directed that before recording evidence, Learned Trial Court shall ensure supply of the copies of supplementary chargesheet either to the accused persons or to their engaged Learned defence Counsel in accordance with law after obtaining their signatures on the margin of order sheet.

I have also gone through the case diary properly. It appears to this Court that considering the materials on record, this Court by order dated 23.06.2025 has cancelled the bail granted to the accused persons-in-custody. So, before this Court, at this stage, there is no new materials for considering bail to the accused persons-in-custody. The citations as referred by Learned Counsel for the accused persons-in-custody cannot be applied in this case at this stage. Hence, both the bail applications filed on behalf of the accused persons stand rejected. The accused persons are to remain in J/C as before.

Further, on perusal of the case record, it appears that in this case probably the I.O. has cited 24 nos. of witnesses in the chargesheet. So, all endeavour should be made by the Learned Trial Court to dispose of the case giving top priority, fixing short

dates, keeping it in mind that the accused persons are lodging in jail and their valuable rights should not be curtailed. However, since there is provision in the erstwhile Cr.P.C. or in the BNS for alternation of the charge if required, so it is open for the Learned Court below to alter the charge if the situation so demands or requires. Since this is a case of murder, so, no specific timeline is given to the Learned Trial Court to dispose of the case. However, it should be kept in mind that the accused persons are lodging in jail, so, at the time of disposal of the case, every attempt should be made on the part of the Learned Trial Court to dispose of the case by ensuring attendance of the witnesses in accordance with law.

With this observation, both the bail applications stands rejected and thus disposed of. Send down the record to the Learned Trial Court alongwith a copy of this order. Return back the Case Diary to I.O. through Learned Additional P.P. along with a copy of this order.

JUDGE

**MOUMITA
DATTA**

Purnita

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