

**HIGH COURT OF TRIPURA
A G A R T A L A**

B.A. No.08 of 2026

Sri Dhiman Debbarma

Son of late Suresh Debbarma, resident
of Darogamurapara, East Simna, P.S.
Sidhai, District- West Tripura

..... **Applicant(s)**

Sri Suhit Debbarma

son of Sri Dhiman Debbarma, resident
of Darogamurapara, East Simna, P.S.
Sidhai, District- West Tripura

..... **Accused person**

- V e r s u s -

The State of Tripura

.....**Respondent(s)**

For the Applicant (s)	:	Mr. S. Lodh, Adv. Mr. S. Majumder, Adv
For the Respondent(s)	:	Mr. R. Datta, P.P

HON'BLE MR. JUSTICE S. DATTA PURKAYASTHA

ORDER

05.02.2026

Heard learned counsel of both sides.

The accused, Suhit Debbarma was arrested by the police on 01.07.2025 in connection with Sidhai P.S. Case No.38 of 2025 registered under Sections 103(1) and 238(a) of Bharatiya Nyaya Sanhita, 2023 (in short, the BNS) with the allegation of being involved with the commission of murder of one Bikash Debnath along with his associates.

The police investigated the case and finally, submitted the charge-sheet on 26.09.2025 against the accused persons namely, (1) Pratosh Debbarma under Sections 103(1)/238(a)/61(2)(a)/3(5) of BNS (2) Sri Suhit Debbarma under Sections 103(1)/238(a)/3(5) of BNS, (3) Sri Birbiram Debbarma and (4) Sri Jora Debbama under Sections 61(2)(a)/238(a) of BNSS.

The investigating officer on that day also submitted a separate prayer for custody trial of the accused persons along with the present accused applicant.

It appears from the records that the learned Magistrate vide order dated 26.09.2025 has kept said petition reserved on the ground that it is only a committing court and not authorised to conduct trial of a sessions triable offence. Therefore, ultimately the petition has been kept undisposed of till date. The case is still at the stage of appearance of all the accused persons and production of the accused persons. Records also show that necessary accused copy was already supplied to the present accused. At this stage, the accused applicant has approached this court for bail under Section 483 of BNSS, 2023.

Mr. S. Lodh, learned counsel appearing for the accused applicant submits that Section 483 of the BNSS being an independent provision giving wider power to the superior court who can entertain the bail application and decide the merit of the bail prayer of the accused applicant independently notwithstanding the fact that such petition for custody trial is pending before the learned Magistrate. Additionally, Mr. Lodh, learned counsel further submits that even if the bail is granted, still under Section 232 of BNSS, the Magistrate will be able to decide the matter of petition of custody trial at the time of commitment of the case and moreover, the said prayer can only be decided by the learned Magistrate at the time of committing the case not before that which will further linger the detention of the accused in the custody.

On the other hand, Mr. R. Datta, learned PP appearing for the State opposes the prayer submitting that if the bail is now granted by the High Court or even it is rejected on consideration of the merit of the case, the said order will certainly have bearing while deciding the petition for custody trial by the learned Magistrate and therefore, in such situation, the learned Magistrate may be directed to expeditiously hear and decide the petition for custody trial.

On consideration of the submissions of both sides, firstly this Court is constraint to observe that the approach of the learned Magistrate

was not proper for keeping the petition for custody trial pending on the ground that it was a sessions' triable case.

Section 232 of the BNSS clearly provides that subject to the provision of the Sanhita relating to bail, the Magistrate will remand the accused to the custody during, and until the conclusion of the trial. Therefore, it is incumbent on the Magistrate to decide the fate of said petition which is kept pending till date. Though it is the apprehension of the accused applicant that the decision of the learned Magistrate on the petition for custody trial of the accused at the time of commitment of case will linger further the detention of the accused as still the case is at the stage of causing appearance of some other the accused persons. However to this Court, there is no embargo for the learned Magistrate to decide the said petition first keeping in mind that the accused is in incarceration wherein his liberty is being curtailed every day.

This Court is also of the view that any order on merit of the bail application passed by this Court will ultimately have bearing upon the decision of said petition for custody trial by the learned Magistrate. If he is now released on bail, nothing will remain further for the learned Magistrate to decide in said petition and ultimately it will be rendered infructuous.

The present accused applicant earlier approached the learned Sessions Judge, West Tripura, Agartala under Section 483(1)(b) of BNSS praying for bail and while deciding the matter, learned in-charge Sessions Judge rejected the said bail application mainly based on the said petition for custody trial. Such decision as per the above said provision is required to be taken by the learned Magistrate before commitment. Whether Sessions Judge has at all the power to decide a petition for custody trial, is not being dealt with herein inasmuch as such petition is now pending before the learned Magistrate.

Situated thus, without expressing any opinion on the merit of the bail application, the same is rejected at this stage. The learned Magistrate is directed to dispose of the said petition for custody trial independently and expeditiously as possible without being influenced by the order passed by the learned Sessions Judge in bail application No.178 of 2025 and also without

waiting for appearance of all the accused persons or waiting for completion of all the legal formalities for committing the case. Needless to say, liberty will always be there to the accused applicant to approach the appropriate forum in accordance with law in case of any grievance of the accused applicant in respect of the order passed by the learned Magistrate on the petition of custody trial vis-a-vis bail of accused applicant.

Accordingly, this bail application is disposed of.

Send a copy of this order to the learned Magistrate along with the trial courts records by tomorrow (06.02.2026).

Return the CD forthwith to learned P.P.

JUDGE



SUJAY GHOSH Digitally signed by SUJAY GHOSH
Date: 2026.02.05 19:08:10 +05'30'

Sujay