

**HIGH COURT OF TRIPURA
AGARTALA**

B.A. No.14 of 2026

Smt. Susmita Chakraborty
W/O Sri Jayanta Debnath,
R/O-A.D. Nagar Road No.14, Chowrangi para, P.S:Amtali,
P.O.-Bishalgarh, District-West Tripura.

---- Applicant

On behalf of

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

Versus

The State of Tripura

----Respondent(s)

For Applicant(s)	:	Mr. Ratan Datta, Adv, Mr. Ankan Tilak Paul, Adv.
For Respondent(s)	:	Mr. Raju Datta, P.P.
Date of hearing	:	23.02.2026
Date of delivery of Judgment & Order	:	25.02.2026
Whether fit for reporting	:	YES

HON'BLE MR. JUSTICE BISWAJIT PALIT
Judgment & Order

Heard Learned Counsel, Mr. Ratan Datta appearing on behalf of the accused person in custody and also heard Learned P.P., Mr. Raju Datta appearing on behalf of the State-respondent.

2. This application under Section 483 of BNSS, 2023 is filed for granting bail to the accused person in custody namely Jayanta Debnath who is incarceration in jail in connection with Amtali P.S. case No.118 of 2024 corresponding to S.T.(T-

I)/3/2025, now pending before the Court of Learned Addl. Sessions Judge, Court No.2, Agartala, West Tripura under Section 127(1)/118(2)/109/3(6) of BNS.

3. Taking part in the hearing, Learned Counsel, Mr. Ratan Datta first of all drawn the attention of the Court submitted that earlier this present accused and others were granted bail by the Learned Trial Court. Thereafter, the prosecution challenged the order of bail before this Court and this Court by order dated 23.06.2025 cancelled the bail granted to the accused persons by the Learned Trial Court and directed the accused persons to surrender before the Learned Trial Court and accordingly, the accused persons surrendered before the Learned Trial Court. Thereafter, the accused persons in custody further filed another bail application before this Court and after hearing both the sides, by order dated 28.10.2025 in B.A. No.93 of 2025 and B.A. No.96 of 2025, this Court rejected the bail application with a direction to the Learned Trial Court to dispose of the case in accordance with law giving top priority. It was further submitted by Learned Counsel that by this time, 3 witnesses out of 24 numbers of witnesses have been examined on behalf of the prosecution. Thereafter, Learned Counsel submitted that in this case 'grounds of arrest' was not communicated to the accused in writing in compliance of different observation made by the Hon'ble Supreme Court time to time. Furthermore, the accused is lodging in custody for a considerable long period of time and since there is no material against the accused in the FIR and during investigation

also, the IO could not collect any materials against him showing his implication with the alleged offence, so, Learned Counsel urged for releasing the accused on bail in any condition.

Reliance was placed upon one judgment of Hon'ble Supreme Court of India reported in **(2025) 5 SCC 799 [titled as *Vihaan Kumar Vs. State of Haryana and another*]** wherein in para No.21, Hon'ble the Apex Court observed as under:

"21. An attempt was made by the learned Senior Counsel appearing for the first respondent to argue that after his arrest, the appellant was repeatedly remanded to custody, and now a charge-sheet has been filed. His submission is that now, the custody of the appellant is pursuant to the order taking cognizance passed on the charge-sheet. Accepting such arguments, with great respect to the learned Senior Counsel, will amount to completely nullifying Articles 21 and 22(1) of the Constitution. Once it is held that arrest is unconstitutional due to violation of Article 22(1), the arrest itself is vitiated. Therefore, continued custody of such a person based on orders of remand is also vitiated. Filing a charge-sheet and order of cognizance will not validate an arrest which is per se unconstitutional, being violative of Articles 21 and 22(1) of the Constitution of India. We cannot tinker with the most important safeguards provided under Article 22."

Referring the same, Learned Counsel submitted that considering the materials on record and for absence of the 'grounds of arrest', the accused needs to be released on bail in any condition.

Learned Counsel also referred another citation of Hon'ble the Apex Court reported in **(2026) 1 SCC 500 [titled as *Mihir Rajesh Shah vs. State of Maharashtra and another*]** wherein in para Nos.56 and 62, Hon'ble the Apex Court observed as under:

"56. It would not be out of context now to refer to an obligation which has been imposed on a person making arrest, as provided under Section 50-A read in relation to Section 50CrPC (now Sections 48 and 47 of BNSS 2023 respectively), to inform the arrestee of his right to indicate his relative, friend or such other person for the purpose of giving information with regard to his arrest.

Simultaneously, a duty has also been cast on the person making arrest to forthwith thereafter inform of such arrest with reasons and the place where the arrested person is being held to the such indicated person. The police officer/person making any arrest shall make an entry of the fact as to who has been informed of such an arrest in a book to be kept in the police station. Further protection in this regard is reflected when a duty has been cast on the Magistrate to satisfy himself, when the arrestee is produced before him, that the above requirement stands complied with. This requirement is in addition to the rights of an arrestee to be made aware of the grounds of arrest.

62. We thus hold, that, in cases where the police are already in possession of documentary material furnishing a cogent basis for the arrest, the written grounds of arrest must be furnished to the arrestee on his arrest. However, in exceptional circumstances such as offences against body or property committed in flagrante delicto, where informing the grounds of arrest in writing on arrest is rendered impractical, it shall be sufficient for the police officer or other person making the arrest to orally convey the same to the person at the time of arrest. Later, a written copy of grounds of arrest must be supplied to the arrested person within a reasonable time and in no event later than two hours prior to production of the arrestee before the Magistrate for remand proceedings. The remand papers shall contain the grounds of arrest and in case there is delay in supply thereof, a note indicating a cause for it be included for the information of the Magistrate."

Referring the same, Learned Counsel submitted that in view of the principle of law laid down by Hon'ble the Apex Court, the accused needs to be released from the custody henceforth.

Lastly, Learned Counsel also drawn the attention of the Court referring another order dated **17.12.2025** passed by a coordinate bench of this Court in **B.A. No.123 of 2025** and submitted that the principle of said judgment can also be applied in this case.

4. The submission of Learned Counsel for the accused person in custody was strongly objected by Learned P.P. representing the prosecution. Learned P.P. taking part in the hearing submitted that initially all the accused persons were granted bail by the Learned Trial Court and thereafter, the State

of Tripura challenged the order of bail granted to the accused persons namely Santanu Sen @ Rupan, Jayanta Debnath, Dilip Banik @ Suman, Dipan Banik @ kenchu, Pinku Sen @ Suman, Papon Chakraborty and this Court after elaborate hearing by order dated 23.06.2025 in B.A. No.12 of 2025 dismissed the bail granted to the accused persons by the Learned Trial Court and directed the accused person to surrender before the Learned Trial Court but affirmed the bail granted to accused Piklu Sen alias Suman and Papon Chakraborty. Thereafter, the accused persons again preferred another application before this Court which was numbered as B.A. No.93 of 2025 and B.A. No.96 of 2025 and this Court after elaborate hearing of both the parties rejected the bail application filed by the said accused persons and directed the Learned Trial Court to dispose of the case giving top priority keeping it in mind that the accused persons are lodging in jail. It was further submitted that from the date of production and thereafter, on several occasions, the accused persons were produced before the Learned Trial Court but they never agitated the issue of 'grounds of arrest' before the Learned Trial Court. So, at this belated stage, there is no scope to consider the ground as submitted by Learned Counsel for the accused persons in custody.

In this regard, Learned P.P. also referred another citation of the Hon'ble the Supreme Court of India reported in **2025 SCC OnLine SC 1702 [titled as State of Karnataka Vs. Sri Darshan Etc.]** in a similar nature of this case wherein in para No.20.1.7, Hon'ble the Apex Court observed as under:

"20.1.7. In the present case, the arrest memos and remand records clearly reflect that the respondents were aware of the reasons for their arrest. They were legally represented from the outset and applied for bail shortly after arrest, evidencing an immediate and informed understanding of the accusations. No material has been placed on record to establish that any prejudice was caused due to the alleged procedural lapse. In the absence of demonstrable prejudice, such as irregularity is, at best, a curable defect and cannot, by itself, warrant release on bail. As reiterated above, the High Court treated it as a determinative factor while overlooking the gravity of the charge under Section 302 IPC and the existence of a prima facie case. Its reliance on Pankaj Bansal and Prabir Purkayastha is misplaced, as those decisions turned on materially different facts and statutory contexts. The approach adopted here is inconsistent with the settled principle that procedural lapses in furnishing grounds of arrest, absent prejudice, do not ipso facto render custody illegal or entitle the accused to bail."

Referring the same, Learned P.P. submitted that even if it is assumed that the 'grounds of arrest' was not communicated still the same is a curable defect and cannot by itself, warrant release on bail and for that, the accused in custody is not entitled to get bail.

Learned P.P. further submitted that this accused in custody is directly FIR named and during investigation, sufficient materials were collected by IO against this accused person and others, so, there is no scope to consider the bail application filed by the accused and prayed for dismissal of the same.

6. I have heard both the sides at length. In this case, the prosecution was set into motion on the basis of an FIR laid by one Badal Saha to O/C, Amtali P.S. alleging inter alia that on the day of Biswakarma Puja, after watching Biswakarma Puja his son Subankar Saha was returning back to home along with 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 accompanying friends were also tried to rescue his son and further they also sustained injury. Immediately thereafter, his son was referred to Hapania Hospital from where 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. By this time, the victim succumbed to his injury. This present accused is directly FIR named and during investigation, he was produced before the Court along with other accused persons on 26.09.2024. During that period and thereafter also, the accused was all along represented by his Learned Defence Counsel and he never agitated this issue of 'grounds of arrest' before the Learned Trial Court.

7. However, it appears to this Court that by order dated 07.01.2025, Learned Addl. Sessions Judge, Court No.2, Agartala, West Tripura granted bail to all the accused persons and prior to that, Learned J.M. 1st Class,(Court No.2), Agartala, West Tripura by order dated 04.01.2025 granted interim bail to all the accused persons till their production before the Court of Learned Sessions Judge on 07.01.2025 and later on, on commitment they were

granted regular bail by Learned Addl. Sessions Judge, Court No.2, Agartala, West Tripura which was later on cancelled by this Court by order dated 23.06.2025. In such a situation, it appears to this Court that the 'grounds of arrest' as projected by Learned Counsel for the accused person in custody cannot be a valid ground to consider his release on bail and the accused has already extinguished his right to be released on bail on the 'grounds of arrest'. So, on the plea of 'grounds of arrest', I do not find any scope to release the accused on bail.

8. In addition to that, after going through the citations referred by Learned Counsel for the accused in custody, it appears to this Court that the first judgment i.e. **Vihaan Kumar(supra)** was considered by the Hon'ble Apex Court in judgment referred by Learned P.P. i.e. **Sri Darshan(supra)** and the second judgment is prospective, as such, the principles of the said judgments cannot be applied in this case. Furthermore, since the accused has already been granted bail by the Learned Trial Court which was later on cancelled by this Court after detailed hearing, so, the plea that the 'grounds of arrest' was not communicated to the accused in writing is not a solid ground for the accused in custody to be released on bail.

9. From the record, it appears that prosecution before the Learned Trial Court has adduced 3 witnesses and in this case, probably, 24 numbers of witnesses were cited by IO in the charge-sheet. So, considering the nature and gravity of the offence, all endeavour should be taken by the Learned Trial Court to dispose

of the case giving top priority keeping it in mind that the accused persons are languishing in jail.

10. In view of the above, the present bail application deserves no consideration and accordingly, the same stands rejected.

Send down the record of Learned Trial Court along with a copy of this order.

JUDGE



AMRITA DEB

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Deepshikha