

**HIGH COURT OF TRIPURA
AGARTALA**

A.B. No.9 of 2026

- 1. Smt. Suparna Debnath** (aged about 49 years)
W/O Sri Shibu Saha,
Resident of Durjoynagar,
P.S.-New Capital Complex,
District-West Tripura;
- 2. Sri Bijan Debnath**(aged about 45 years),
S/O Late Bikash Debnath,
Resident of Durjoynagar, P.S.-New Capital Complex,
District-West Tripura;
- 3. Sri Sujit Mandal**(aged about 49 years)
S/O-Lt. Birendra Mandal,
Resident of Durjoynagar, P.S.-Airport,
District-West Tripura;
- 4. Sri Nitai Saha** (aged about 45 years),
S/O-Sri Gouranga Saha,
Resident of Durjoynagar, P.S.- New Capital Complex,
District-West Tripura;
- 5. Sri Raju Saha** (aged about 49 years),
S/O-Sri Radhu Saha,
Resident of Lichubagan, P.S-New Capital Complex,
District-West Tripura;
- 6. Sri Chiranjit Dhar** (aged about 37 years)
S/O-Late Bapi Dhar,
Resident of Durjoynagar, P.S.-Airport,
District-West Tripura;
- 7. Sri Subhrajit Dhar @ Subha Dhar** (aged about 28 years)
S/O Samujwal,
Resident of Durjoynagar, P.S.-Airport,
District-West Tripura;
- 8. Sri Dipu Mandal** (aged about 40 years)
S/O Late Dilip Mandal,
Resident of Durjoynagar, P.S.-Airport,
District-West Tripura;
- 9. Sri Nayan Das** (aged about 43 years),
S/O-Nabin Chandra Das,
Resident of Durjoynagar, P.S.-New Capital Complex,
District-West Tripura;
- 10. Sri Benu Deb,** (aged about 53 years),
S/O Lt. Hiralal Deb,
Resident of Madhya Bhubanban, P.S.-New Capital Complex,
District-West Tripura.

---- Petitioner(s)

Versus

The State of Tripura

----Respondent(s)

For Petitioner(s) : Mr. Sankar Lodh, Adv.

For Respondent(s) : Mr. Raju Datta, P.P.

HON'BLE MR. JUSTICE BISWAJIT PALIT

Order

04/02/2026

Heard Learned Counsel Mr. Sankar Lodh appearing on behalf of the petitioners and also heard Learned P.P., Mr. Raju Datta appearing on behalf of the State-respondents.

This pre-arrest bail application under Section 482 of BNSS is filed by the petitioner praying for granting them pre-arrest bail.

At the very outset, Learned P.P. appearing on behalf of the State-respondent submitted that this present petition is not maintainable as because the present petitioners without approaching the Court of Sessions have directly come to the High Court which cannot be considered in view of the different judgments of Hon'ble the Apex Court. It was further submitted that another accused namely Rajesh Ghosh of the same case earlier approached before the Court of Learned Session Judge and his pre-arrest bail application was rejected and thereafter the said accused petitioner has approached for bail before this Court which is on board today vide A.B. No.5 of 2026.

In support of his contention, Learned P.P. relied upon one order of Hon'ble the Supreme Court dated **08.09.2025** passed in connection with **Special Leave to Appeal(Crl.)/6588/2025**

wherein in para Nos.8 and 9, Hon'ble the Apex Court observed as under:

"8. We further feel that if the practice of entertaining the applications for pre-arrest bail directly in the High Court is encouraged, and the parties concerned are not relegated to first approach the Sessions Court concerned, the High Court would be flooded with a spate of pre-arrest bail applications thereby creating a chaotic situation. We say so, because if the parties are required to approach the Sessions Court concerned for seeking remedy of pre-arrest bail, there is a strong probability that significant number of applications would be allowed at that level only thereby acting as a filtration process before the process reaches the High Court.

9. It is trite that in most of the States, there is a consistent practice requiring the litigant concerned to first approach the Sessions Court for seeking relief of pre-arrest bail and only in the event of denial of such relief, the litigant would be granted access to approach the High Court for seeking such relief. This is, of course, subject to just exceptions and the High Court, for reasons to be recorded, may entertain an application for pre-arrest bail directly in special/extra-ordinary circumstances."

Learned P.P. also relied upon another order of Hon'ble the Apex Court arising out of **SLP(Crl.)/17464-17465/2025** wherein in para No.7, Hon'ble the Apex Court observed as under:

"7. It cannot be denied that provisions of pre-arrest bail are applicable in the State of Uttar Pradesh. Hence, any person accused of an offence if desirous of seeking such protection would be required to avail the appropriate remedy by approaching the competent Sessions Court at the first instance. To grant the relief of pre-arrest bail in a criminal writ petition while refusing to exercise jurisdiction to quash the proceedings is totally unacceptable and impermissible as has been held by this Court in the case of Neeharika Infrastructure (P) Ltd. v. State of Maharashtra, reported in (2021)19 SCC 401.

"22. As observed by this Court in Hema Mishra v. State of U.P. [Hema Mishra v. State of U.P., (2014) 4 SCC 453: (2014) 2 SCC (Cri) 363], though the High Courts have very wide powers under Article 226, the powers under Article 226 of the Constitution of India are to be exercised to prevent miscarriage of justice and to prevent abuse of process of law by the authorities indiscriminately making pre-arrest of the accused persons. It is further observed that in entertaining such a petition under Article 226, the High Court is supposed to balance the two interests. On the one hand, the Court is to ensure that such a power under Article 226 is not to be exercised liberally so as to convert it into Section 438CrPC proceedings. It is further observed that on the other hand whenever the High Court finds that in a given case if the

protection against pre-arrest is not given, it would amount to gross miscarriage of justice and no case, at all, is made for arrest pending trial, the High Court would be free to grant the relief in the nature of anticipatory bail in exercise of its powers under Article 226 of the Constitution of India, keeping in mind that this power has to be exercised sparingly in those cases where it is absolutely warranted and justified. However, such a blanket interim order of not to arrest or "no coercive steps" cannot be mechanically passed and in a routine manner.

23. So far as the order of not to arrest and/or "no coercive steps" till the final report/charge-sheet is filed and/or during the course of investigation or not to arrest till the investigation is completed, passed while dismissing the quashing petitions under Section 482 CrPC and/or under Article 226 of the Constitution of India and having opined that no case is made out to quash the FIR/complaint is concerned, the same is wholly impermissible."

[Emphasis supplied]"

Relying upon the said citations, Learned P.P. submitted that this present petition is not maintainable and as such the same may be dismissed with a direction to the petitioners to approach the Sessions Court first and after that in case of need they may approach to this Court.

On the other hand, Learned Counsel, Mr. Sankar Lodh appearing on behalf of the petitioners submitted that there is no bar to entertain the petition but he fairly submitted that the citations referred by Learned P.P. are no doubt relevant but in the present case, one of the accused persons has already approached for bail to the Court of Sessions which has been rejected. Now, if this Court rejects the said petition, in that case, the Learned Court below shall not pass any order in favour of the present petitioners. Situated thus, their petitions would be infructuous and it was further submitted that Hon'ble the Supreme Court of India by the said observation did not pass any order that there is no scope to approach the High Court directly seeking pre-arrest bail and in our State, considering the pendency of the bail matters, this Court may

entertain the same. Learned Counsel also relied another citation of the Hon'ble Supreme Court of India reported in **2025 SCC OnLine SC 2108 [Jagdeo Prasad Vs. State of Bihar and others dated 17.09.2025]** wherein in para No.6 Hon'ble the Supreme Court observed as under:

"6. However, before parting, we do wish to express our sincere concern with the haste at which the High Court has dealt with this matter. While the scheme of Criminal Procedure Code, 1973 (now Bharatiya Nagarik Suraksha Sanhita, 2023) provides concurrent jurisdiction to the High Court and Sessions Court for entertaining applications for anticipatory bail, this Court has time and again observed that High Court should always encourage exhausting an alternative/concurrent remedy before directly interfering itself. This approach balances the interests of all the stakeholders, first by giving the aggrieved party a round of challenge before the High Court. Second, this approach provides the High Court an opportunity to assess the judicial perspective so applied by the Sessions Court, in concurrent jurisdiction, instead of independently applying its mind from the first go. Further, the High Court fails to record any reason for directly granting anticipatory bail without impleading the appellant-complainant as a party."

Referring the same, Learned Counsel submitted that the principle of said observation also may be applied in this matter.

Admittedly, another accused Rajesh Ghosh has approached this Court for pre-arrest bail which is on board today for disposal and these present petitioners are also the accused persons of the said case for which the pre-arrest bail application is moved. So, after hearing both the sides, it appears to this Court that there is some force on the submission of Learned Counsel, Mr. Lodh, as such, at this stage there will be no bar to entertain the application filed by the present petitioner-accused persons. Accordingly, the submission of Learned Counsel for the petitioners is considered and this present petition is found to be maintainable.

Thereafter, in respect of the petition filed by the petitioner-accused persons, at the time of hearing Learned Counsel,

Mr. Lodh appearing on behalf of all the petitioners has drawn the attention of the Court referring the contents of the FIR that although the FIR is written on 23.12.2025 but the case is registered by PS on 26.12.2025. Learned Counsel Mr. Lodh thereafter submitted that in this case notices have been issued by the IO upon all the accused persons of this case under Section 35(3) of BNSS. So, there is no scope to disallow the petition filed by the present petitioner-accused persons. Thereafter, Learned Counsel referred Annexure-3 wherein one Sujit Mandal and others on 29.12.2025 submitted one complaint to the O/C, NCC PS against the present informant of the case supplying copy to the higher dignitaries of the State. It is further submitted that just to save himself, the informant has lodged this false FIR against the present petitioner-accused persons. Learned Counsel thereafter submitted that from the contents of the FIR it is crystal clear that no specific allegation could be laid by the informant against any of the petitioner-accused persons and furthermore, the present petitioner No.1 of this case is a Corporator and she has been falsely implicated. So, if the prayer filed is not considered then the petitioners would be seriously prejudiced and urged for releasing the petitioner-accused persons on pre-arrest bail in any condition.

On the other hand, Learned P.P. appearing on behalf of the State-respondents first of all drawn the attention of the Court that the case was initially registered under Section 329(3)/117(2)/351(2)/308(2)/3(5) of BNS but later on, on the prayer of IO Section 308(5) of BNS was added in this case. So, the purpose of issuing notice under Section 35(3) of BNSS has become infructuous. It was further submitted by Learned P.P. that from the contents of the FIR it is crystal clear that the present petitioner-

accused persons are directly involved with the alleged offence, so, Section 308(5) of BNS is very much applicable against them and in course of investigation the IO of this case has collected sufficient materials against the petitioner-accused persons showing their involvement with the alleged offence. Lastly, Learned P.P. urged for dismissal of the application filed by the petitioner-accused persons.

To counter the submission of Learned P.P., Learned Counsel, Mr. Lodh further submitted that the prayer of the prosecution for adding Section 308(5) of BNS was filed on 07.01.2026 and according to the prayer of the IO, the alleged story of forcibly taken money took place on 20.12.2025 and if it is so in the FIR the informant specifically stated that on 22.12.2025 the money was taken by the accused persons. Thus, it is very much clear that the present case is nothing but a fabricated and manufactured one and the IO is just trying to save the informant from the charge of criminal acts committed by him.

In this case, the prosecution has been set into motion on the basis of an FIR laid by one Sri Pradip Chakraborty to O/C, NCC PS alleging inter alia that the accused persons as mentioned in the petition since last two and half years are trying to him to grab his properties and on so many occasions, they came to his house and created pressure to give them 2 kanis of land by way of gift deed and if he refuses to their proposal then they will kill him. On 05.11.2023 the accused persons as mentioned in the petition came to his house and when he disagreed to their proposal, they physically assaulted him on the point of revolver in presence of his family members and after hearing his hue and cry when the neighbouring persons came, they left. It was also mentioned that he used to

receive these types of threat over phone almost on regular basis and also threatened the neighbouring shopkeepers not to open their mouth against them and if the informant disagrees with their proposal then they will give a good lesson to him and since then he was under continuous mental pressure due to their threat. On 13.12.2025, they assembled in front of his house and remained there from 12 am at night till 3 am at night and came there with auto-rickshaw and vehicles when his gate was under lock and key. They could not enter into his house and again they loudly threatened him to transfer 2 kanis of land. He also noticed that they were armed with rods and revolvers and constantly they were threatening him over phone. It was further mentioned in the FIR that prior to that day in the night the miscreants came to his house and demanded Rs.5,00,000/- being armed with fire arms and under compulsion he was forced to give Rs.50,000/- to save his life and his family members, so, he sought police protection. This is the gist of the FIR.

The case is registered and in course of investigation Section 308(5) of BNS is added by the Learned Magisterial Court on the prayer of the IO. It is also the admitted position that in course of investigation notices have been issued upon all the petitioners by the IO under Section 35(3) of BNSS. The notices were issued on 10.01.2026 but the prayer of IO was allowed on 13.01.2026. So, it is the settled position of law that until and unless the prayer of the IO was allowed, there was no scope on the part of the IO to take any action prior to 13.01.2026 i.e. before the date of passing of the order by the Learned Magistrate regarding adding of Section 308(5) of BNS. No definite conclusion can be given on the submission of Learned Counsel Mr. Lodh that as to whether the alleged incident of

handing over of money took place either on 20.12.2025 or on 22.12.2025 or not at this stage.

However, this present petition has been filed by 10 petitioner-accused persons and another petition has been filed by accused Rajesh Ghosh which is also on board today. The investigation of the case is in progress. Considering the nature and gravity of the offence, it appears to this Court that the IO should conduct the investigation of the case properly to unearth the truth.

I have perused the Case Diary carefully. The present petitioner No.1 is a woman. So, considering the materials on record so far collected by IO upto this stage of investigation at this stage, I am inclined to grant pre-arrest bail to accused persons namely Smt. Suparna Debnath, Subhrajit Dhar, Dipu Mandal and Benu Deb in the event of their arrest of their execution of bond of Rs.50,000/- with one surety of like amount to the satisfaction of the O/C of the concerned PS with the following terms and conditions:

1. That the aforesaid 4 accused persons shall appear before IO as and when called for for the sake of investigation.
2. That the accused persons shall not leave the jurisdiction of the O/C of the concerned PS without the permission of the concerned PS.
3. That the accused persons shall not directly or indirectly make any attempt or threat to the informant or his family members during the period of their bail nor they shall threaten or tamper the witness of the prosecution.

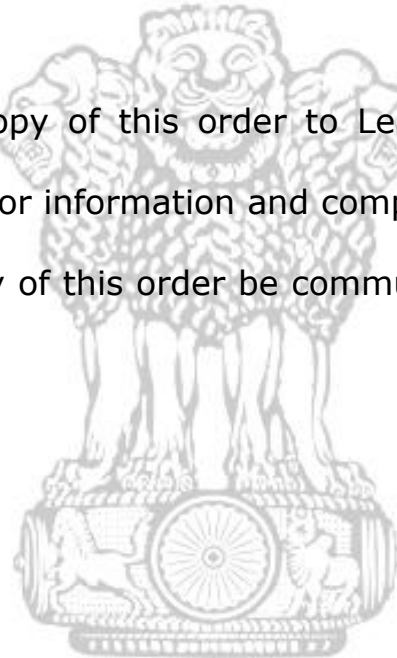
If any of the conditions is violated in that case the IO shall be at liberty to pray for cancellation of their bail to the concerned Court in accordance with law.

However, considering the materials on record at this stage and finding prima facie involvement, I do not find any scope to consider pre-arrest bail application of accused Bijan Debnath, Sujit Mandal, Nitai Saha, Raju Saha, Chiranjit Dhar, Nayan Das. As such, their pre-arrest bail application stands rejected being devoid of merit.

With this observation, this pre-arrest bail application is partly allowed.

Supply a copy of this order to Learned Counsel for the petitioner Mr. S. Lodh for information and compliance.

Also, a copy of this order be communicated to IO through Learned P.P.



सत्यमेव जयते

JUDGE