

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

A.B. No.14 of 2026

&

B.A. No.32 of 2026

In A.B. No.14 of 2026

1. Shri Bhagirath Debbarma

son of Shri Indrajit Debbarma, resident of
Dhanirampur, Ward No.03, P.O.
Matinagar, P.S. Sonamura, District-
Sepahijala, Tripura

2. Shri Bhabendra Debbarma

son of Shri Indrajit Debbarma, resident of
Dhanirampur, Ward No.03, P.O.
Matinagar, P.S. Sonamura, District-
Sepahijala, Tripura

..... Petitioner(s)

- Versus -

The State of Tripura

In B.A. No.32 of 2026

Smt. Jagat Shree Debbarma,

Daughter of Shri Indrajit Debbarma, wife
of Sri Suman Debbarma, resident of
Dhanirampur VTC, P.O. Matinagar, P.S.
Sonamura, District- Sepahijala, Tripura

..... Applicant(s)

On behalf of:

Sri Indrajit Debbarma

son of late Radha Kumar Debbarma,
resident of Dhanirampur VTC, P.O.
Matinagar, P.S. Sonamura, District-
Sepahijala, Tripura

..... Accused person(s)

- Versus -

The State of Tripura

..... Respondent(s)

For the petitioner/applicant	:	Mr. S. Lodh, Adv. Mr. S. Majumder, Adv.				
For the respondent	:	Mr. R. Datta, P.P.				
Date of hearing	:	27.02.2026				
Date of delivery of judgment and order	:	23.03.2026				
Whether fit for reporting	:	<table border="1"><tr><td>Yes</td><td>No</td></tr><tr><td></td><td>✓</td></tr></table>	Yes	No		✓
Yes	No					
	✓					

HON'BLE MR. JUSTICE S. DATTA PURKAYASTHA

JUDGMENT & ORDER

The Anticipatory Bail (A.B. No.14 of 2026) and Bail Application (B.A. No.32 of 2026) are heard together and are being disposed of by this common judgment, as same have arisen out of a common police case.

[2] Heard learned counsel, Mr. Sankar Lodh and Mr. Subham Majumder, learned counsel appearing for the accused petitioners. Also heard Mr. Raju Datta, learned Public Prosecutor, appearing for respondent-State.

[3] In B.A. No.32 of 2026, the accused, Shri Indrajit Debbarma has sought for his bail under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, (in short, BNSS) 2023 in connection with Sonamura P.S. Case No.2025 SNM 065 dated 29.07.2025 subsequently renumbered as Special (NDPS) 01 of 2026 pending in the learned court of the Special Judge, Sepahijala District, Sonamura where charge-sheet is laid under Sections 20(b)(ii)(c)/25/29 of NDPS Act, 1985.

[4] In A.B. No.14 of 2026, 2(two) sons of said accused, Indrajit Debbarma, namely Sri Bhagirath Debbarma and Bhabendra Debbarmma, have sought for pre-arrest bail in connection with same case.

[5] As per FIR, on the basis of secret information on 28.07.2025, the police raided the house of accused, Indrajit Debbarma and recovered 141 kg of suspected ganja including plastic drums and sacks. Thereafter, police arrested the accused, Indrajit Debbarma and seized those items. At

that time, as per the FIR, the police found that his two sons had fled away. Police investigated the case and ultimately laid charge sheet against the father and his two sons under Sections 20(b)(ii)(c)/25/29 of NDPS Act, 1985. Now, the father is in custody from his arrest on 29.07.2025, and as submitted at the Bar, warrants have been issued by the learned Special Judge, Sepahijala District, Sonamura against the sons, after a charge-sheet was laid by the police showing them as absconders. Therefore, the two sons of the accused, Indrajit Debbarma i.e. the petitioners of A.B. No.14/2026 have prayed for pre-arrest bail.

[6] During hearing of B.A. No.32 of 2026 with respect to accused, Indrajit Debbarma, learned counsel, Mr. Sankar Lodh, tried to show some instances that order was passed by learned Special Judge granting bail to the accused person in some other cases for the reason that grounds of arrest were not communicated to the arrestees in their own understandable language whereas in the present case learned Special Judge on the identical situation has taken a contra view rejecting his bail application observing that grounds of arrest was properly communicated to the accused. According to learned counsel, Mr. Lodh, same standard is not being maintained by the learned Special Judge while appreciating whether grounds of arrest is being communicated in an effective way to the accused persons so that they can understand the same.

[7] Learned counsel also submits that in the present case grounds of arrest was not communicated to the accused in terms of the decision of Hon'ble the Supreme Court in case of **Mihir Rajesh Shah versus State of Maharashtra and another, (2026) 1 SCC 500.**

[8] Regarding the bail application of two sons of the said accused petitioner, learned counsel, Mr. Lodh, submits that despite the warrants

were issued against them by the learned Special Judge, the bail applications are maintainable and there is no universal rule that when a warrant has been issued, it will exclude the jurisdiction of the Court to exercise discretion under Section 482 of BNS. Learned counsel, Mr. Lodh, in this regard relies on a decision of Hon'ble Supreme Court in case of **Asha Dubey versus State of Madhya Pradesh, 2024 SCC OnLine SC 5633** wherein it was observed by Hon'ble the Supreme Court that in the event of the declaration under Section 82 of the Cr.P.C., it is not as if in all cases that there will be a total embargo on considering the application for the grant of anticipatory bail.

[9] Learned counsel, Mr. Lodh, also relies on a decision of Madhya Pradesh High Court in case of **Deepankar Vishwas versus State of M.P. [I.L.R. 2025 M.P. 1477 (DB)]** wherein the High Court observed that where the proceedings under Sections 82/83 & 299 Cr.P.C. were initiated against accused and/or he was declared proclaimed offender, the application for anticipatory bail would be maintainable. However, such consideration and grant of anticipatory bail to the accused would depend upon the gravity and seriousness of the offence involved therein and such power should be exercised in a very cautious manner and in extreme and exceptional cases only in the interest of justice.

[10] Next point as raised by learned counsel, Mr. Lodh, is that there is, except the statement of the father in police custody, no other incriminating material in the record to connect both the sons with the alleged crime. In this regard, learned counsel, Mr. Lodh, also relies on a decision of Hon'ble the Supreme Court in case of **P. Krishna Mohan Reddy versus the State of Andhra Pradesh, 2025 LiveLaw (SC) 598** wherein at paragraph No.53, it was observed as under:

“iv) Where such police statement of an accused is confessional statement, the rigour of Section(s) 25 and 26 respectively will apply with all its vigour. A confessional statement of an accused will only be admissible if it is not hit by Section(s) 24 or 25 respectively and is in tune with the provisions of Section(s) 26, 28 and 29 of the Evidence Act respectively. In other words, a police statement of an accused which is in the form of a confession is per se inadmissible and no reliance whatsoever can be placed on such statements either at the stage of bail or during trial. Since such confessional statements are rendered inadmissible by virtue of Section 25 of the Evidence Act, the provision of Section 30 would be of no avail, and no reliance can be placed on such confessional statement of an accused to implicate another co-accused.”

[11] Learned counsel, Mr. Lodh, further relies on a decision of this Court in case of **Najmin Akter versus the State of Tripura [B.A. No.121 of 2025]** decided on 16.12.2025 wherein followings were observed:

“[5] On consultation of the case diary, it appears that except the interrogation report of the accused persons in that case as recorded by investigation officer, prima facie, there is no other material that they had any previous meeting of mind to attract Section 29 of the NDPS Act for taking into consideration the whole quantity of ganja seized from all of them. Mr. Lodh, learned counsel also relies on a recent decision of Hon'ble Supreme Court in case of P Krishna Mohan Reddy vs. the State of Andhra Pradesh; 2025 LiveLaw (SC) 598 wherein at paragraph No. 53 it was held by the Hon'ble Supreme Court that a police statement of an accused which is in the form of a confession is per se inadmissible and no reliance whatsoever can be placed on such statements either at the stage of bail (emphasis laid) or during trial.

[6] In view of above decision of Hon'ble Supreme Court, said statement of the accused persons recorded by the investigating officer during their custody cannot even be taken into consideration at the time of consideration of the bail petition. Prima facie, in absence of any other materials to attract Section 29 of the NDPS Act, the total quantity of the ganja so seized from all the three accused persons cannot be taken into consideration collectively at this stage. Admittedly, each one of the accused persons were found carrying intermediate quantity of the ganja. Moreso, in the seizure list, the investigating officer also separately mentioned the quantity of such contraband items seized from each of the accused persons and not the total quantity. The accused person is in custody for about 90 days. Considering all these aspects, the bail application is allowed.”

[12] Learned counsel, Mr. Lodh, also relies on a decision of Hon'ble Supreme Court in case of **State (By NCB) Bengaluru versus Pallulabid Ahmad Arimutta and another, (2022) 12 SCC 633** wherein after considering the materials available in that case, Hon'ble the Supreme Court observed as under:

“11. Having gone through the records along with the tabulated statement of the respondents submitted on behalf of the petitioner NCB and on carefully perusing the impugned orders [Pallulabid Ahamad Arimutta v. State, 2019 SCC OnLine Kar 3516], [Mohd. Afzal v. Union of India, 2020 SCC OnLine Kar 3433], [Munees Kavil Paramabath v. State, 2020 SCC OnLine Kar 3431], [Abu Thahir v. State, 2019 SCC OnLine Kar 3517], [Mohd. Afzal v. Union of India, 2020 SCC OnLine Kar 1294], [Munees Kavil Paramabath v. State of Karnataka, 2020 SCC OnLine Kar 3432] passed in each case, it emerges that except for the voluntary statements of A-1 and A-2 in the first case and that of the respondents themselves recorded under Section 67 of the NDPS Act, it appears, prima facie, that no substantial material was available with the prosecution at the time of arrest to connect the respondents with the allegations levelled against them of indulging in drug trafficking. It has not been denied by the prosecution that except for the respondent in SLP (Crl.) No. 1569 of 2021, none of the other respondents were found to be in possession of commercial quantities of psychotropic substances, as contemplated under the NDPS Act.

12. It has been held in clear terms in Tofan Singh v. State of T.N. [Tofan Singh v. State of T.N., (2021) 4 SCC 1 : (2021) 2 SCC (Cri) 246], that a confessional statement recorded under Section 67 of the NDPS Act will remain inadmissible in the trial of an offence under the NDPS Act. In the teeth of the aforesaid decision, the arrests made by the petitioner NCB, on the basis of the confession/voluntary statements of the respondents or the co-accused under Section 67 of the NDPS Act, cannot form the basis for overturning the impugned orders [Pallulabid Ahamad Arimutta v. State, 2019 SCC OnLine Kar 3516], [Mohd. Afzal v. Union of India, 2020 SCC OnLine Kar 3433], [Munees Kavil Paramabath v. State, 2020 SCC OnLine Kar 3431], [Abu Thahir v. State, 2019 SCC OnLine Kar 3517], [Mohd. Afzal v. Union of India, 2020 SCC OnLine Kar 1294], [Munees Kavil Paramabath v. State of Karnataka, 2020 SCC OnLine Kar 3432] releasing them on bail. The CDR details of some of the accused or the allegations of tampering of evidence on the part of one of the respondents is an aspect that will be examined at the stage of trial. For the aforesaid reason, this Court is not inclined to interfere in the orders dated 16-9-2019 [Pallulabid Ahamad Arimutta v. State, 2019 SCC OnLine Kar 3516], 14-1-2020 [Mohd. Afzal v. Union of India, 2020 SCC OnLine Kar 3433], 16-1-2020 [Munees Kavil Paramabath v. State, 2020 SCC OnLine Kar 3431], 19-12-2019 [Abu Thahir v. State, 2019 SCC OnLine Kar 3517] and 20-1-2020 [Munees Kavil Paramabath v. State of Karnataka, 2020 SCC OnLine Kar 3432] passed in SLP (Crl.) No. arising out of Diary No. 22702 of 2020, SLP (Crl.) No. 1454 of 2021, SLP (Crl.) No. 1465 of 2021, SLPs (Crl.) Nos. 1773-74 of 2021 and SLP (Crl.) No. 2080 of 2021 respectively. The impugned orders [Pallulabid Ahamad Arimutta v. State, 2019 SCC OnLine Kar 3516], [Mohd. Afzal v. Union of India, 2020 SCC OnLine Kar 3433], [Munees Kavil Paramabath v. State, 2020 SCC OnLine Kar 3431], [Abu Thahir v. State, 2019 SCC OnLine Kar 3517], [Mohd. Afzal v. Union of India, 2020 SCC OnLine Kar 1294], [Munees Kavil Paramabath v. State of Karnataka, 2020 SCC OnLine Kar 3432] are, accordingly, upheld and the special leave petitions filed by the petitioner NCB seeking cancellation of bail granted to the respective respondents, are dismissed as meritless.”

[13] Learned Public Prosecutor, on the other hand, submits that when warrant is already in force against the petitioners of A.B. No.14 of

2026, the petition for pre-arrest bail is not maintainable. To gain support to his contention, he also relies on a decision of Hon'ble the Supreme Court in case of **Srikant Upadhyay and others versus State of Bihar and another, (2024) 12 SCC 382** wherein it was observed by the Hon'ble Supreme Court that the power to grant anticipatory bail is an extraordinary power and though in many cases it was held that bail is said to be a rule, it cannot, by any stretch of imagination, be said that anticipatory bail is the rule. It cannot be the rule and the question of its grant should be left to the cautious and judicious discretion by the court depending on the facts and circumstances of each case. While called upon to exercise the said power, the court concerned has to be very cautious as the grant of interim protection or protection to the accused in serious cases may lead to miscarriage of justice and may hamper the investigation to a great extent as it may sometimes lead to tampering or distraction of the evidence. It was also observed that at any rate, when warrant of arrest or proclamation is issued, the applicant is not entitled to invoke the extraordinary power. Certainly, this will not deprive the power of the court to grant pre-arrest bail in extreme, exceptional cases in the interest of justice. But then, person(s) continuously defying orders and keeps absconding is not entitled to such grant.

[14] Learned public prosecutor, further relies on another decision of Hon'ble the Supreme Court in case of **State by the Inspector of Police versus B. Ramu, 2024 SCC OnLine SC 4073** wherein it was observed that in case of recovery of a huge quantity of narcotic substance, the Courts should be slow in granting even regular bail to the accused, then what to talk about anticipatory bail and more so, when the accused is alleged to be having criminal antecedents. Learned Public Prosecutor

however, submits that there is no material in the record that antecedents of the two sons are bad.

[15] Learned Public Prosecutor again relies on another decision of this Court in case of **Sri Apu Ranjan Das versus the State of Tripura [A.B. No.01 of 2026]** decided on 04.02.2026 wherein this Court rejected the bail of the petitioner on the ground that there were certain materials against him in the form of extra-judicial confession and the accused was previously engaged in another case where 29,900 nos. of bottles of Eskuf cough syrup were allegedly recovered by the police. The facts of said case are distinguishable with the facts of the case in hand.

[16] This Court has considered the rival submissions of the parties and has also gone through relevant materials placed in the record.

[17] So far the plea of accused, Indrajit Debbarma in B.A. No.32 of 2026 is concerned, it is found that Indrajit Debbarma was arrested on 29.07.2025 i.e. prior to the decision of the Hon'ble Supreme Court in the case of **Mihir Rajesh Shah** (supra) and in the arrest memo, against the caption 'the grounds of arrest', it is mentioned that total 141 kg of suspected dry ganja was recovered from the dwelling house of the accused, Indrajit Debbarma. The said arrest memo was signed by him. Separate document containing of such grounds of arrest in details was also prepared by the investigating officer and was furnished to the accused mentioning the details of the said recovery of contraband items from his house. Therefore, this Court prima-facie does not find any materials to accept the contention of the accused about the alleged violation of Article 22(1) of the Constitution or provision of Section 47 of the BNSS of non-furnishing of grounds of arrest to him. Therefore, the bail application of Indrajit Debbarma does not deserve any consideration as it is a case

concerning commercial quantity of contraband items which were recovered from his house in his presence.

[18] Now, regarding the prayer for pre-arrest bail of the two sons of said accused, Indrajit Debbarma, it appears that the informant in his statement recorded by the investigating officer stated that on interrogation, Indrajit Debbarma had confessed his guilt and also had disclosed that his above said two sons were involved in this case and they were also living in the same house. If the confessional statement of the accused made before the investigating officer is kept out of consideration but what appears is that both the above said two sons are residing with their father in the same house wherefrom the said contraband items were recovered. In support of the same, the investigating officer has also collected copies of the ROR and ration card which show that said Indrajit Debbarma was living with his wife, above said two sons and wife of Bhagirath Debbarma in the same house.

[19] Some of the witnesses, like constable, Swarga Mohan Debbarma, constable, Subrata Das, women S.I., Ratna Das, women constable, Ayesha Khatun and SPO, Durjadhan Debbarma have stated that after they cordoned the house of Indrajit Debbarma, they found him in the house and on asking, he confirmed his identity but his two sons i.e. Bhagirath Debbarma and Bhabendra Debbarma were not found in the house and seeing the police party, they were able to flee away from the house. They also stated that said Indrajit Debbarma and his two sons had violated the provisions of NDPS Act for illegal storing, purchasing and procuring of huge quantity of suspected dry ganja without any valid documents.

[20] Another witness, namely Purba Sinha, Deputy Magistrate & Collector, Sonamura stated that on spot interrogation, Indrajit Debbarma confessed his guilt and also confessed that his said two sons were also involved in the matter and they were living in the same house. She also stated that, therefore, said Indrajit Debbarma, his two sons and their associates were involved in illegal smuggling, carrying, storing, selling, purchasing and procuring of such huge quantity of contraband of dry ganja which reflects strong conspiracy.

[21] Now, whether the accused, Indrajit Debbarma was solely responsible for storing those contraband items in his house or his both sons were only responsible for the same or whether all of them were responsible for the same are the matters of final adjudication in the trial. Prima-facie there are materials that all the accused are residing in the same house wherefrom such contraband items were recovered. Though it is also a fact that in the same house, the wife of Indrajit Debbarma and wife of Bhagirath Debbarma are also living but they have not been arrayed as accused in this case, however that fact alone does not justify to draw an inference in terms of Section 37 of the Act that there are reasonable grounds for believing that both the sons of the accused, Indrajit Debbarma are not guilty of such offences.

[22] Therefore, the next question arises whether, as per decisions of the Hon'ble Supreme Court in the cases of **Deepankar Viswas** (supra) and **Srikant Upadhyay** (supra), this case can be treated as a case of exceptional one to extend the benefit of pre-arrest bail to the said two sons of accused, Indrajit Debbarma i.e. the petitioners of A.B. No.14 of 2026. After the charge-sheet was laid on 31.12.2025, the learned trial Court also issued warrant of arrest against both the sons of Indrajit Debbarma vide order dated 27.01.2026. According to this court, such benefit of pre-arrest

bail cannot be extended to the petitioners of A.B. No.14 of 2026 in view of the discussions made hereinabove. Therefore, their prayers for pre-arrest bail are also liable to be rejected.

[23] As indicated earlier, Mr. Lodh, learned counsel incidentally also submitted that consistency is not being maintained in the court of the learned Special Judge while appreciating the fact as to whether the grounds of arrest are properly communicated to the arrested person. In support of his submissions, he also refer two orders of the learned Special Judge passed on 09.02.2026 in Special (NDPS) 46 of 2025 and 18.02.2026 in case No.NCB/Agartala/Crime 10 of 2025.

[24] From the order dated 09.02.2026 passed in Special (NDPS) 46 of 2025, it appears that accused was arrested on 17.04.2025 and learned Special Judge observed that after going through the 'grounds of arrest' prepared in two separate sheets, nowhere it was found that the same was communicated in writing in the language understandable by the accused. The accused person and his wife singed in the grounds of arrest (arrest memo) in Bengali and nowhere it was written that the grounds of arrest was communicated to the accused in his language.

[25] In the order dated 18.02.2026 passed in case No.NCB/Agartala/Crime 10 of 2025, learned Special Judge observed that the grounds of arrest in Bengali was not submitted before the Court when the accused was produced and it created a doubt. Therefore, the Court was of the view that the arrestee had failed to communicate in writing to the arrestee, the grounds of arrest in the language which he understands to make it as purposeful one and the bail was granted. Learned Special Judge also relied on the decision of the Hon'ble Supreme Court in the case of **Mihir Rajesh Shah** (supra). The document containing the grounds of

arrest bears the date 07.01.2026 which was prepared in English. Therefore, it can be presumed that the accused was arrested in that case on or around 07.01.2026.

[26] Anyway, these orders are not challenged before this Court in the present proceedings and therefore, it will not be proper to make any comment on those orders. However, it is reiterated that regarding the matter of communication of 'grounds of arrest', several judgments are already passed by the Hon'ble Supreme Court on different occasions and learned Special Judge has also mentioned some of those judgments in the said orders. Some judgments are also given prospective effect by the Hon'ble Supreme Court. Therefore, while dealing with the issues, all the judgments as rendered by the Hon'ble Supreme Court are required to be applied properly in the true spirits which will help in maintaining the consistency and clarity in the decision making process of the Court.

[27] In view of the above discussions, this Court finds no merit in the Anticipatory Bail (A.B. No.14 of 2026) and Bail Application (B.A. No.32 of 2026). Therefore, both the petitions are rejected and disposed of accordingly.

Reconsign the records of the learned trial Court along with a copy of this judgment and order immediately.

Return the CD to learned PP.

Pending application(s), if any, also stand disposed of.

JUDGE