

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

B.A. No.39 of 2026

Sri Sujit Chakraborty,
son of late Rabindra Chakraborty, R/O- ICDS,
Vill- Lankamura, P.O. Lankamura, District- West
Tripura, PIN-799009

..... Applicant(s)

On behalf of

Sri Rupak Bhattacharjee,
S/O- Lt. Dulal Bhattacharjee, R/O-
Bhramakunda, P.S. Sidhai, District- West
Tripura, PIN-799212

..... Accused person(s)

- V e r s u s -

The State of Tripura

.....Respondent(s)

For the Applicant (s)	:	Mr. A.T. Paul, Adv				
For the Respondent(s)	:	Mr. R. Datta, P.P				
Date of hearing and delivery of judgment and order	:	02.03.2026				
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

Heard Mr. A.T. Paul, learned counsel appearing for the accused applicant and Mr. R. Datta, learned P.P. appearing for the State.

[2] The present application for bail is filed on behalf of the accused, Sri Rupak Bhattacharjee, in connection with Sidhai P.S. Case No.45 of 2024 [renumbered as Special NDPS 12 of 2025] registered under Sections 22(C), 25 and 29 of the NDPS Act. The accused was arrested on 04.04.2025. Since then he is in custody.

[3] Mr. A. T. Pal, learned counsel appearing for the accused applicant submits that the ground of arrest was not communicated to the accused to his serious prejudice rendering his arrest and subsequent remand orders illegal and therefore, the bail may be granted. Mr. Pal, learned counsel refers to the arrest memo of the accused person where against the relevant column of the ground of arrest, it is mentioned as follows:

“Grounds of arrest: U/s-22(c)/25/29 of the NDPS Act”

[4] Mr. Pal, learned counsel also submits that since the time of his arrest, he is still in custody for a long period and only two calendars for examination of witnesses were fixed and during those calendars, only two witnesses were examined and therefore, there is a chance of delay in trial.

[5] Mr. R. Datta, learned P.P. opposes the prayer and submits that as per the first forwarding report dated 05.04.2025, the accused person was produced before the Court after arrest and the grounds and as per said forwarding memo, reasons for the arrest were duly informed to the arrestee and his family members.

[6] In this regard, learned P.P. relies also on a decision of the Hon'ble Supreme Court in the case of **State of Karnataka vs. Darshan, 2025 SCC OnLine SC 1702**, wherein it is observed in paragraph No.20.1.5 that while Section 50 Cr.P.C is mandatory, the consistent judicial approach has been to adopt a prejudice-oriented test when examining the alleged procedural lapses and mere absence of written grounds does not ipso facto render the arrest illegal, unless it results in demonstrable prejudice or denial of a fair opportunity to defend.

[7] At paragraph No.20.1.7 of **Darshan** (supra), while appreciating the materials available in that case, Hon'ble Supreme Court further observes that the arrest memos and remand records clearly reflected that the respondents

were aware of the reasons for their arrest and 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 was placed on record to establish that any prejudice was caused due to the alleged procedural lapse and therefore, in absence of demonstrable prejudice, such as irregularity was, at best, a curable defect and could not, by itself, warrant release on bail.

[8] This Court gone through the records and taken note of the submissions of both sides.

[9] In the case of **Pankaj Bansal vs. Union of India and others**, (2024) 7 SCC 576, decided on 03.10.2023, Hon'ble Supreme Court decides that to give true meaning and purpose to the constitutional and the statutory mandate of Section 19(1) of the Prevention of Money Laundering Act, 2002 of informing the arrested person of the grounds of arrest, it would be necessary, henceforth, that a copy of such written grounds of arrest is furnished to the arrested person as a matter of course and without exception.

[10] Thereafter, in **Prabir Purkayastha vs. State (NCT of Delhi)**, (2024) 8 SCC 254, while dealing with a case of Unlawful Activities (Prevention) Act, again Hon'ble Supreme Court reiterated the principle as laid down in **Pankaj Bansal** (supra) and held further that there was significant difference between the two phrases "reasons for arrest" and "grounds of arrest". The 'reasons for arrest' as indicated in the arrest memo are purely formal parameters, viz., to prevent the accused person from committing any further offence; for proper investigation of the offence; to prevent the accused person from causing the evidence of the offence to disappear etc. but the "grounds of arrest" would be required to contain all such details in hand of the Investigating Officer which necessitated the arrest of the accused.

[11] In the case of **Ashis Kakkar vs. Union Territory of Chandigarh**, Criminal Appeal No.1518 of 2025, decided on 25.03.2025, Hon'ble Supreme Court further taking note of the ratio of **Prabir Purkayastha** (supra) observed that in the given facts of the said case, the arrest memo could not be construed as grounds of arrest as no other worthwhile particulars were furnished to the arrested person.

[12] In the case of **Vihaan Kumar vs. State of Haryana and another, (2025) 5 SCC 799**, Hon'ble Supreme Court also held that the requirement of informing a person arrested of grounds of arrest is a mandatory requirement of under Article 22(1) and the information of the grounds of arrest must be provided to the arrested person in such a manner that sufficient knowledge of the basic facts constituting the grounds of arrest is imparted and communicated to the arrested person effectively in the language which he understands; when arrested accused alleges non-compliance with the requirements of Article 22(1), the burden will always be on the Investigating Officer/Agency to prove compliance with the requirements of Article 22(1) and non-compliance with requirement of Article 22(1) vitiates the arrest of the accused.

[13] Thereafter, the judgment in **Darshan** (supra) was decided by Hon'ble Supreme Court. Again after the judgment of **Darshan** (supra) in the case of **Ahmed Mansoor and others vs. the State, represented by Assistant Commissioner of Police & another**, Criminal Appeal No.4505 of 2025, arising out of SLP [CRL] No.198 of 2025, decided on 14.10.2025, Hon'ble Supreme Court further referring to the ratio of **Pankaj Bansal** (supra) and **Prabir Purkayastha** (supra) observed that the mandate of furnishing the grounds of arrest in the said case was not complied with. While discussing the matter, the followings were also observed:

In *State of Karnataka v. Sri Darshan Etc.(supra)* the facts governing are quite different. It was a case dealing with the cancellation of bail where the charge sheet had been filed and the grounds of detention were served immediately. This Court has, in fact, given its approval to the decision in *Vihaan Kumar v. State of Haryana & Anr.(supra)*. Similarly, in *Kasireddy Upender Reddy v. State of Andhra Pradesh and Ors. (supra)*, this Court was pleased to hold in para 27 that the object underlying the provision that the grounds of arrest should be communicated has been explained by this Court in *Vihaan Kumar v. State of Haryana & Anr (supra)*. Therefore, the law as laid down in *Vihaan Kumar v. State of Haryana & Anr (supra)* has been approved and reiterated in the above said decisions.

[14] Then, in the case of **Mihir Rajesh Shah vs. State of Maharashtra and another, 2025 SCC OnLine SC 2356**, Hon'ble Supreme Court again held that the grounds of arrest must be communicated in writing to the arrestee in the language he/she understands and in case(s) where, the arresting officer/person is unable to communicate the grounds of arrest in writing on or soon after arrest, it be so done orally and the said grounds be communicated in writing within a reasonable time i.e. in any case at least two hours prior to production of the arrestee for remand proceedings before the magistrate. However, it was also mentioned that the above said procedure should govern the arrest henceforth.

[15] Now coming to the present case in hand, it is found that nothing was communicated/informed to the accused regarding his 'grounds of arrest' but only in the forwarding report dated 04.05.2025 as indicated earlier, simply a bald statement was written that the grounds and reasons of arrest were duly communicated to the accused but how and in which manner, the same was informed were not further disclosed in the said forwarding report.

[16] As per the ratio of **Vihaan Kumar** (supra), the burden lies on the arresting authority to prove the fact of communication of grounds of arrest to the accused when the same is challenged by the accused. In absence of any such materials in the present case, the arrest of the accused, Sri Rupak Bhattacharjee is held to be illegal.

[17] Considering thus, the bail prayer of the accused, namely Sri Rupak Bhattacharjee is allowed. The accused may go on bail on furnishing a bond of Rs.2,00,000/- [Rupees Two lakh only] along with one surety of the like amount to the satisfaction of the learned Special Judge, Court No.2, West Tripura, Agartala on condition that (i) the surety must be the permanent resident of Tripura; (ii) he will not leave the State of Tripura without prior permission of the learned Special Judge and such permission can be accorded by the learned Special Judge only on any special ground (iii) he will not terrorise or influence the witnesses of the case; (iv) he will also not create any hurdle in the smooth functioning of the trial of the case and (v) he will also record his attendance before the learned Special Judge, Court No.2, West Tripura, Agartala once in a week till the trial is completed or unless the same is relaxed by the Ld. Special Judge.

With such observation and directions, this bail application is disposed of.

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

JUDGE

SUJAY GHOSH

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