

HIGH COURT OF TRIPURA

_A_G_A_R_T_A_L_A_

WP (Crl.) No.03 of 2026

1. Smti. Anupriya Gupta, daughter of Ram Prasad Gupta, resident of Flat No.2, Vrindavan Apartments, Plot No.110, I.P. Extension, P.O. Shakarpur, District East Delhi, Delhi-110092, Mobile No.+917392812888.

.....Petitioner

For and on behalf of

Sri Deep Prakash Gupta, son of Puttu Lal Gupta, resident of Flat No.2, Vrindavan Apartments, Plot No.110, I.P. Extension, P.O. Shakarpur, District East Delhi, Delhi-110092.

.....Accused

_V_E_R_S_U_S_

1. State of Tripura, represented by the Secretary, Home Department, Government of Tripura, New Capital Complex, Agartala, West Tripura.

.....Respondent

BEFORE

HON'BLE JUSTICE DR. T. AMARNATH GOUD

HON'BLE MR. JUSTICE S. DATTA PURKAYASTHA

For Petitioner(s)	:	Mr. Chetan Garg Advocate. Mr. Dhiman Gope, Advocate
For Respondent(s)	:	Mr. R. Datta, P.P.
Date of hearing	:	17.03.2026
Date of judgment & Order	:	18.03.2026
Whether fit for reporting	:	YES

JUDGMENT & ORDER

[Dr. T. Amarnath Goud, JJ]

Heard Mr. C. Garg, learned counsel and Mr. D. Gope, learned counsel appearing for the petitioner. Also heard Mr. R. Datta, learned P.P. appearing for the respondent-State.

[2] The present petition has been filed under Article-226 of the Constitution of India for protection and enforcement of the fundamental and legal rights of the accused and for illegal arrest, illegal police remand and violation of fundamental rights guaranteed under Articles-21 and 22 of the Constitution of

India. Further, against the order dated 21.01.2026 passed by the learned Special Judge (NDPS), West Tripura, Agartala in Agartala GRPS Case No.104 of 2025 under Section-21(C) & Section-29 of the Narcotics Drugs and Psychotropic Substances Act, 1985 whereby police custody/remand of the petitioner has been mechanically granted for a period of six days in complete disregard of the binding mandate of Articles-21 & 22 of the Constitution of India, the settled principles governing arrest and remand, and the fundamental requirement of communication of grounds of arrest, reasons of arrest and arrest memo. Further, for quashing the impugned remand order dated 21.01.2026 passed by the learned Special Judge (NDPS), West Tripura, Agartala, in Agartala GRPS Case No.104 of 2025 under Section-21(c) and Section-29 of the NDPS Act and writ of habeas corpus for restoration of the petitioner's personal liberty.

[3] The petitioner herein has prayed for the following reliefs:

- (a) Declare that the arrest and continued custody of the accused/ detenu (i.e., Deep Prakash Gupta) pursuant to the Impugned Remand Order dated 21.01.2026 passed by the Ld. Special Judge (NDPS), West Tripura, Agartala in Agartala GRPS Case No. 104 of 2025 is illegal, unconstitutional and violative of Articles 21 and 22 of the Constitution of India;
- (b) Issue a writ of Certiorari, or any other appropriate writ, order or direction, quashing and setting aside the Impugned Remand Order dated 21.01.2026 passed by the Ld. Special Judge (NDPS), West Tripura, Agartala in Agartala GRPS Case No. 104 of 2025, whereby police remand of the accused/ detenu (i.e., Deep Prakash Gupta) has been granted for a period of six (6) days till 27.01.2026;
- (c) Issue a writ of Habeas Corpus, or any other appropriate writ, order or direction, directing the immediate release of the accused/ detenu (i.e., Deep Prakash Gupta) from custody, subject to such terms and conditions as this Hon'ble Court may deem fit and proper;
- (d) Pending disposal of the present writ petition, stay the operation and effect of the Impugned Remand Order dated 21.01.2026 and all consequential order(s), and pass such interim or ad-interim orders as may be necessary to protect the life, liberty and health of the accused."

[4] The facts in brief are that the writ jurisdiction of this Court is invoked to assail the order dated 21.01.2026, passed by the learned Special Judge (NDPS) [Court No. 4] West Tripura, Agartala in GRPS Case No. 104 of 2025, registered under Sections-21(c) & 29 of the NDPS Act, 1985 granting six (6) days police remand of the accused/ detenu, till 27.01.2026. The remand order while rejecting any alleged contravention of sub-clause (1) of Article-22 of the Constitution of India, observes that it was pursuant to a Production Warrant that the Accused was

produced and since the accused was not arrested by the IO in GRPS Case No. 104 of 2025, the question of furnishing arrest memo and grounds of arrest to the accused did not arise at all. The above finding is in conflict with the principle laid down by the Hon'ble Apex Court in *Mihir Rajesh Shah v. State of Maharashtra & Anr.*, reported in **2025 INSC 1288**, which unequivocally held that in any case, grounds of arrest have to be furnished at least two hours prior to the production of the arrestee for remand proceedings before the magistrate. In the present case, it was only after passage of the remand order that the IO handed over only the grounds of arrest to the petitioner at 10:35 PM.

[5] Even at the time of furnishing 'grounds of arrest' the I.O. was also required under law to furnish the 'reasons of arrest' which is separate and distinct from grounds of arrest, as per law laid down by the Hon'ble Apex Court in *Prabir Purkayastha v. State (NCT of Delhi)*, reported in **(2024) 8 SCC 254**. Furthermore, Section-43 of BNSS provides that arrest involves not only actual touch or confinement of the body, but arrest can also be affected without actual touch if the person sought to be arrested submits to the custody by word or action. The Hon'ble Bombay High Court in *W.P.(CrL) Nos. 3601, 3606 & 3608 of 2024: Lalit Shyam Tekchandani v. State of Maharashtra & Anr.*, while relying upon the law laid down in *Dhanraj Aswani v. Amar S. Mulchandani*, reported in **2024 (10) SCC 336** observed that even though the arrest of the accused was pursuant to issuance of a Production Warrant under Section-267 Cr.P.C., it amounts to an "arrest" within the meaning of CrPC. Therefore, failure to provide the 'grounds of arrest' to the accused prior to the remand proceedings is a glaring irregularity, which totally vitiates the arrest of the accused and his detention any further under police remand and judicial custody..

[6] Mr. C. Garg, learned counsel appearing for the petitioner has submitted that the accused/detenu was taken into custody from Hardoi, Uttar Pradesh on 27.12.2025 (Saturday) at around 1:30 PM from his residence in the presence of his wife in connection with FIR No. 691 of 2025, registered before Nandgram Police Station, Ghaziabad under Sections-Sec 336(3), 319(2), 318(4), 3(5) of BNS read with Sections-8, 22, 29, 37, 60 of the NDPS Act. Pursuant to his arrest, the petitioner was produced before the learned Court of Addl. Sessions Judge/ Special Judge (NDPS) Ghaziabad.

[7] In view of the rejection of transit remand, an application came to be filed before the learned Special Judge, Tripura for issuance of production warrant against the accused person, which was allowed on 03.01.2026 and sent to the Jail Superintendent, Dasna Jail, Ghaziabad (UP) on 05.01.2026. At this stage, it would be germane to place on record that at the time of bringing the accused person from Dasna Jail, Ghaziabad (UP) a copy of the said production warrant issued by the learned Special Judge (Agartala) was not handed over to the accused and his family members. Furthermore, no record exists with the petitioner herein and the accused of whether such production warrant was communicated to the learned Court of Addl. Sessions Judge/Special Judge (NDPS) Ghaziabad.

[8] The accused person was taken out from judicial custody at Dasna District Jail, Ghaziabad by the escorting police personnel of the Uttar Pradesh Police on 17.01.2026, and was transported to the State of Tripura via Train No.: 15657 which arrived in Guwahati on 19.01.2026. The accused arrived in Agartala on 20.01.2026 at around 5:45 PM, and was brought before the PSI Court on 21.01.2026 at about 11:30 AM and was produced before the learned Special Judge (NDPS), West Tripura, Agartala on 21.01.2026 at about 2:30 P.M. for seeking remand/custodial interrogation in connection with GRPS Case No. 104 of 2025.

[9] As against the prayer of the investigating agency for seeking remand of the accused, a detailed written objection opposing the said prayer was filed on behalf of the accused, which came to be rejected vide the impugned remand order dated 21.01.2026, thereby granting police custody of the accused till 27.01.2026. The impugned remand order came to be passed at around 9:30 PM on 21.01.2026 and subsequent thereto, the Tripura Police Crime Branch (Anti-Narcotics), Agartala, vide Memo No. 736/SP/TPCB (AN)/CS/2026 dated 21.01.2026 at 10:35 P.M., furnished "intimation of Ground of Arrest" to the said accused and the petitioner herein in connection with Agartala GRPS Case No. 104 of 2025.

[10] It has been further contended that subsequent to passing of the impugned remand order, concerning developments have occurred which merit immediate attention of this Court. It may be noted that upon completion of the initial period of police custody, the accused was produced on 27.01.2026, where despite the admitted deterioration of his medical condition, including subsisting fractured bones/ injuries as borne out from medical records available on case record, the investigating officer sought further police remand for five (5) days. A

detailed written objection opposing such further remand was also filed on behalf of the accused; however, police custody of the accused was extended till 31.01.2026, thereby aggravating the continuing violation of the fundamental rights guaranteed under Articles-21 and 22 of the Constitution of India.

[11] In the impugned remand order while rejecting the argument and submissions qua violation of Article-22 proceeds to grant six days remand has observed that the learned Special Judge proceeds on a premise that the accused was not under arrest in GRPS Case No.104 of 2025 and since he was not under arrest, the question of furnishing the arrest memo, grounds of arrest and reasons of arrest do not arise in the present case, which is not tenable under law.

[12] It has been urged before this Court that the Court ought to appreciate that the above finding qua non-furnishing of grounds of arrest is in teeth of the findings rendered by the Hon'ble Apex Court in *Mihir Rajesh Shah v. State of Maharashtra & Anr.*, reported in *2025 INSC 1288* wherein, it was unequivocally held that (i) Grounds of Arrest must be communicated in writing within a reasonable time; and (ii) In any case, at least two hours prior to the production of the arrestee for remand proceedings before the magistrate. Even at the time of furnishing 'grounds of arrest' after the impugned remand order, the IO ought to have also furnished the 'reasons of arrest' which is separate and distinct from grounds of arrest, as per law laid down by the Hon'ble Apex Court in *Prabir Purkayastha v. State (NCT of Delhi)*, reported in (2024) 8 SCC 254.

[13] Such failure on the part of the IO to provide the reasons of arrest separately is a material infringement which cannot be cured, thus, rendering the act of arrest itself as illegal in accordance with law. The findings in the impugned remand order to the connotation and meaning of the word "arrest" ought to be understood by this Court in light of the fact that the word "arrest" is not defined under the Code of Criminal Procedure, 1973 ("Cr.P.C") and/ or the Bharatiya Nyaya Suraksha Sanhita, 2023 ("BNSS") or any other Act, but the dictionary meaning of arrest is 'the taking or keeping of a person in custody by legal authority, especially in response to a criminal charge'.

[14] In the above context, a reading of Section-46 of Cr.P.C. or Section-43 of BNSS would clarify that in order to make an arrest, the police officer or other person making the same shall actually touch or confine the body of the person to be

arrested, unless there be submission to the custody by word or action. In the context of a person said to be in custody within the meaning of Section-439 of Cr. P.C. observed that such a situation arises when the arrestee is in duress either because he is held by the investigating agency or other police or allied authority or is under the control of the Court having been remanded by judicial order, or having offered himself to the Court's jurisdiction and submitted to its orders by physical presence.

[15] In the facts of the present case, even a copy of the production warrant issued by the learned Special Judge on 03.01.2026 was not made available to the accused or his family members at the time of bringing him from judicial custody in Ghaziabad (UP) to the State of Tripura. Even otherwise, the learned Special Judge has erroneously proceeded to allow the prayer for police remand. In the said context, it is submitted that neither the accused has been named in either of the FIRs and not has any recovery been made from him on the basis of an alleged confession purportedly made by a co-accused already in custody, which is inadmissible in law and cannot form the basis for either arrest or custodial interrogation of the present accused as per the Judgment passed by a Three-Judge Bench of the Hon'ble Apex Court in *Toofan Singh v. State of Tamil Nadu*, reported in (2021) 4 SCC 1.

[16] On the date of production of the accused (i.e. on 21.01.2026) the investigating agency forwarded the said accused before the learned Special Judge along with an application seeking police remand and for formally showing the arrest of the accused in connection with the present case, however, in gross violation of settled principles of fair procedure and the mandate of Articles-21 and 22 of the Constitution of India, no copy of the said remand application or the application for showing arrest was furnished either to the accused or to his counsel prior to or at the time of consideration thereof, thereby depriving the accused of a meaningful and effective opportunity to oppose the same and rendering the remand proceedings fundamentally vitiated.

[17] The accused is suffering from serious medical conditions, including high diabetes and low blood pressure, and has sustained fracture of the collarbone at three places, for which treatment is ongoing, along with severe and persistent back pain. The medical records placed on record demonstrate a serious risk to the life and health of the accused and may result in irreversible medical complications. The accused is the sole breadwinner of his family and is responsible for the

maintenance and care of his wife, who is a homemaker, three minor children, including two daughters aged about 17 years and 6 years respectively and a son aged about 10 years who is a special child requiring constant care and attention, as well as his aged father, about 95 years old, who is completely blind and wholly dependent upon the accused for his day to day needs.

[18] The cumulative factual matrix placed before this Court discloses a grave and irreversible infraction of the constitutional guarantees enshrined under Articles-21 & 22 of the Constitution of India. As such, the impugned remand order does not merely suffer from an error of appreciation or an incorrect exercise of discretion; rather, it proceeds on a fundamentally flawed understanding of law, whereby it has countenanced a situation in which an individual is permitted to be "shown arrested" and remanded to police custody without the foundational safeguards that the Constitution provides for as conditions precedent to any lawful deprivation of personal liberty. Such an approach, if allowed to stand, would have the deleterious effect of reducing constitutional protections to empty formalities, vulnerable to circumvention through procedural devices such as production warrants.

[19] In the above backdrop, the continued custody of the accused assumes the character of an illegal detention, wholly disproportionate, arbitrary, and unsupported by lawful authority. This illegality is further aggravated by the undisputed medical condition of the accused and the compelling humanitarian circumstances placed on record, which were neither disputed nor meaningfully considered in the impugned order. The present case, therefore, squarely warrants the exercise of this Court's extraordinary jurisdiction under Article-226 to restore the primacy of constitutional safeguards, to prevent further erosion of personal liberty and to re-affirm that procedural compliance is not a matter of convenience but the very essence of the rule of law. Any lesser intervention would amount to judicial endorsement of a precedent that strikes at the heart of constitutional governance.

[20] In the facts and circumstances narrated hereinabove, the accused has a strong *prima facie* case in his favour, and unless the reliefs prayed for are granted, the continued restraint on his liberty would occasion irreparable injury, manifest injustice, and a continuing violation of the fundamental rights guaranteed under Articles-21 and 22 of the Constitution of India. there is no other equally

efficacious alternative remedy available to the petitioner and the accused and as such, the reliefs sought for, if granted, would be just, proper and adequate.

[21] Mr. R. Datta, learned P.P. appearing for the respondent-State has submitted that on 03.01.2026, the investigating officer of the present case, submitted an application before the learned Special Judge (NDPS), Court No.4, West Tripura, Agartala in Agartala GRPS case No.104 of 2025 for issuance of Production Warrant with respect to accused person who was at that time under judicial custody at Ghaziabad District Jail, Dasna, Uttar Pradesh in connection with Nandgram Police Station case No.691/2025 date 04.11.2025 under Section-336(3)/319(2)/318(4)/3(5) BNS read with Section 8/22/29/37/60 of NDPS Act. After hearing, the learned Special Judge (NDPS), Court No.4, West Tripura, Agartala allowed the prayer for production of accused by an Order dated 03.01.2026.

[22] Accordingly, production warrant was issued on 05.01.2026 addressed to Superintendent of Jail, Dasna, Ghaziabad, Uttar Pradesh. As per records obtained from District Jail, Ghaziabad it is evident that accused was served a copy of Production Warrant by the officials of District Jail, Ghaziabad, Dasna, Uttar Pradesh on 17.01.2026. Accordingly the accused was produced before the learned Special Judge (NDPS), Court No.4, West Tripura, Agartala on 21.01.2026. The investigating officer on the very same date i.e. 21.01.2026 submitted an application before the learned Special Judge (NDPS), Court No.4, West Tripura, Agartala for showing arrest of the accused and also prayed for 9 days police remand.

[23] After receipt of the said prayer for showing arrest of accused and prayer for police remand, learned counsel entered appearance on behalf of accused and filed a written objection against the prayer for police remand submitted by IO. The learned Special Judge (NDPS), Court No.4, West Tripura, Agartala after hearing both sides, has made his observation. For the purpose of reference, the relevant portion may be extracted herein below:

“In the present case, on perusal of the order dated 03.01.2026 passed by this Court in c/w this case it appears that this Court by the said order had issued Production Warrant against the accused Sri. Deep Prakash Gupta @ Dipu Yadav which order appears to have been complied with on 05.01.2026 by transmitting the Production Warrant against the accused to the Superintendent, Dasna District Jail, Ghaziabad, U.P vide No.14 dated 05.01.2026. The relevant portion of the order dated 03.01.2026 passed by this Court in c/w this case reads as under:-

"Coming to the prayer of the IO for issuance of Production Warrant, this court after due consideration of the materials record its satisfaction that in the offence under investigation a well organized gang have acted in concert and the accused Deep Prakash Gupta @ Dipu Yadav has also taken a vital role in the accomplishment of the offence. Accordingly prayer for production of the said accused before this court from Dasna District Jail, Ghaziabad, U.P is allowed.

Production Warrant be issued accordingly.....

Admittedly, the accused Sri. Deep Prakash Gupta @ Dipu Yadav has not been arrested by police and it is pursuant to the said production warrant that he is produced before this Court today. Since the accused has not been arrested by the IO the question of furnishing arrest memo and grounds of arrest by IO to the accused does not arise.

I have perused the Case Diary (CD) which discloses incriminating materials against the accused Sri. Deep Prakash Gupta @ Dipu Yadav showing his involvement in this case.

Hence, the prayer of the IO for showing the accused Sri Deep Prakash Gupta @ Dipu Yadav arrested in c/w the instant case stands allowed.

The instant case is registered u/ss.21(c)/29 of the NDPS Act.

Having regard to the nature & gravity of the offence, taking note of the fact that the CD discloses incriminating materials against the said accused and regard being had to the fact that the investigation of the instant case is in progress and some material facts are stated to be yet to be unearthed, I am of the opinion that thorough interrogation of the accused Sri. Deep Prakash Gupta @ Dipu Yadav in police custody of NCC PS is necessary for facilitating the investigation of the instant case.

Hence, the prayer of the IO for authorizing police remand of the accused stands allowed."

[24] The accused was produced before the learned Special Judge (NDPS), Court No.4, West Tripura, Agartala on the strength of production warrant which was issued on 03.01.2026 by the learned Special Judge (NDPS), Court No.4, West Tripura, Agartala, till then he was not arrested on in custody in connection with Agartala GRPS case No.104 of 2025 as because on the strength of the production warrant Uttar Pradesh Police before the accused before the learned Special Judge (NDPS), Court No.4, West Tripura, Agartala on 21.01.2026. Immediately after production, the investigating officer supplied a copy of the shown arrest petition as well as petition for remand to the accused person and after receipt of the said petition; the accused submitted a detailed objection 21.01.2026. In the petition for remand submitted by IO it was mentioned it was mentioned all facts and grounds as to why his arrest was required in connection with Agartala GRPS case No.104 of 2025.

[25] For the first time, the accused was arrested on 21.01.2026 when the prayer for showing arrest was allowed and immediately after receipt of the order passed by learned Special Judge (NDPS), Court No.4, West Tripura, Agartala, the investigating officer communicated grounds of arrest to the arrested accused and his family members and said grounds of arrest was also served to the accused and as such the plea of the accused petitioner that grounds of arrest was not communicated within time is not sustainable in the eye of law.

[26] Moreover, he was produced before the learned Special Judge (NDPS), Court No.4, West Tripura, Agartala on the strength of production warrant. On this aspect also ground of arrest is not required to be served upon the accused as per the Judgment passed by Hon'ble Apex Court of India. It is pertinent to state here that District Jail, Ghaziabad, Dasna supplied copies of necessary orders including production warrant issued by learned Special Judge (NDPS), Court No.4, West Tripura, Agartala to the accused on 17.01.2026 which was communicated to District Jail, Ghaziabad, Dasna by the Superintendent of Police (Anti Narcotics), Tripura Police, Crime Branch.

[27] As per Section-47 of BNSS, 2023 it is mentioned that communication of grounds of arrest is required only when any person is arrested without warrant. For ready reference, Section-47 of BNSS,2023 is quoted herein below:-

“47. Person arrested to be informed of grounds of arrest and of right to bail.-

(1) Every police officer or other person arresting any person without warrant shall forthwith communicate to him full particulars of the offence for which he is arrested or other grounds for such arrest.

(2) Where a police officer arrests without warrant any person other than a person accused of a non bailable offence, he shall inform the person arrested that he is entitled to be released on bail and that he may arrange for sureties on his behalf.”

Similarly as per Section-302 of BNSS,2023 it is mentioned about issuance of warrant for production of the accused person who are involved with another case. For ready reference, Section-302 of BNSS,2023 is quoted herein below:-

"302. Power to require attendance of prisoners:-

(1) Whenever, in the course of an inquiry, trial or proceeding under this Sanhita, it appears to a Criminal Court, (a) that a person confined or detained in a prison should be brought before the Court for answering to a charge of an offence, or for the purpose of any proceedings against him; or (b) that it is necessary for the ends of justice to examine such person as a witness, the Court may make an order requiring the officer in charge of the prison to produce such

person before the Court answering to the charge or for the purpose of such proceeding or for giving evidence.

(2) Where an order under sub-section (1) is made by a Magistrate of the second class, it shall not be forwarded to, or acted upon by, the officer in charge of the prison unless it is countersigned by the Chief Judicial Magistrate, to whom such Magistrate is subordinate.

(3) Every order submitted for countersigning under sub-section-(2) shall be accompanied by a statement of the facts which, in the opinion of the Magistrate, render the order necessary, and the Chief Judicial Magistrate to whom it is submitted may, after considering such statement, decline to countersign the order.”

[28] Production warrant is issued by a Court when an accused person is already in lawful custody in connection with another case, whereas an arrest warrant is issued when the accused is required to be apprehended by the police in connection with a particular case. The object of both warrants is essentially to secure the presence of the accused before the Court for the purpose of legal proceedings. It is further submitted that when an accused is produced before a Court in execution of a production warrant, such production is, in effect and substance, akin to the execution of a warrant of arrest in that case, as the accused is brought before the Court pursuant to a judicial order for the purpose of facing proceedings in that matter. The accused is already under lawful custody and the production warrant merely facilitates his production before the concerned Court having jurisdiction over the subsequent case.

[29] In such circumstances, the question of separately communicating the grounds of arrest to the accused does not arise, inasmuch as the accused is not apprehended afresh by the police but is produced before the Court in compliance with a judicial direction. Upon such production, the accused comes under the custody and authority of the Court in connection with that case and the Court thereafter passes appropriate orders regarding remand or further custody in accordance with law. Hence, no separate grounds of arrest are required to be furnished to the accused at the time of execution of a production warrant. So it is crystal clear that definition of warrant includes production warrant. As per Section-47 of BNSS, 2023 specifically mention that when warrant is issued against the accused person in that case separate grounds of arrest is not require. The Hon'ble Apex Court in the case *Kassireddy Upendra Reddy Vs. State of AP* reported in (2025) SCC OnLine SC 1228 in paragraph No.36 has held that if a person is arrested on a warrant, the grounds for reasons for the arrest is the warrant itself, if

the warrant is read over to him, that is sufficient compliance with the requirement that he should be informed of the grounds for his arrest. Similarly the Hon'ble Apex Court in the case of *State of Karnataka v. Sri Darshan*, reported in (2025) SCC Online SC 1702 has held as follows:

“20.1.5. While Section 50 Cr.P.C. is mandatory; the consistent judicial approach has been to adopt a prejudice-oriented test when examining alleged procedural lapses. The 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.

.....

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 (2024) 7 SCC 576 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.”

[30] It has been further averred that the accused was produced before the learned Special Judge (NDPS), Court No.4, West Tripura, Agartala on 21.01.2026 on the strength of production warrant and on the very same date even before allowing the application of showing arrest, he was represented by a counsel and he himself submitted a written objection against the prayer for police remand wherein he categorically stated and explained in the said written objection as to why he was produced before the learned Special Judge (NDPS), Court No.4, West Tripura, Agartala on 21.01.2026 and he also mentioned specific details about the contents of FIR and other documents in connection with case No. Agartala GRPS Case No. 104 of 2025. So the plea of the accused that application for showing arrest of accused or police remand was not supplied to the accused is incorrect and not sustainable in law.

[31] After considering the written objection submitted by the accused, the learned Special Judge (NDPS), Court No.4, West Tripura, Agartala allowed the application submitted by investigating officer for showing arrest and police

remand. So, subsequently the accused cannot raise the plea that the reasons of arrest was not communicated to him as in the arrest memo, production warrant and written objection categorically mentions the reasons of arrest and subsequently the grounds of arrest have been communicated to him in his native language i.e. Hindi and the grounds of arrest were also explained to him. Moreover, copy of grounds of arrest were also communicated to his sister in law namely Smt. Anupriya Gupta i.e. writ petitioner herein. So, the accused cannot raise the plea that reasons of arrest were not communicated to him.

[32] On 03.01.2026, the IO submitted an application before the learned Special Judge (NDPS), Court No.4, West Tripura for issuing Production Warrant with respect to accused person who was under Judicial custody in Ghaziabad District Jail, Dasna, Uttar Pradesh in connection with Nandgram Police station case number 0691/2025 dated 04.11.2025 under Sections-336(3)/319(2)/318(4)/3(5) BNS read with Sections-8/22/29/37/60 NDPS Act. The learned Special Judge (NDPS), Court No.4, West Tripura allowed the prayer for production of accused as per court order dated 03.01.2026 and the production warrant was issued on 05.01.2026 addressed to the Superintendent of Jail, Dasna, Ghaziabad, Uttar Pradesh.

[33] The prayer for showing arrest of the accused and police interrogation in connection with instant case was submitted on 21.01.2026 and the prayer for showing arrest of the accused and his police remand till 27.01.2026 was allowed by the learned Court by an order dated 21.01.2026. The accused through his engaged counsel submitted written objection and being aware about the reasons of arrest, grounds of arrest the accused raised all points before the learned Court. It is fact that the grounds of arrest was communicated and served to the arrestee in Hindi by an office letter dated 21.01.2026 and a copy of the ground of arrest was served to the arrestee and his sister in law i.e. the petitioner herein.

[34] On 27.01.2026, the accused person was produced before the Court after expiry of his police remand and a prayer was submitted by letter dated 27.01.2026 for joint interrogation of the accused and another co-accused Arun Kumar Ghosh. The learned Court allowed the police remand prayer till 31.01.2026 by an order dated 27.01.2026. The fact enunciated is true barring the fact that cough syrup bottles were found kept in carton boxes covered in red and green plastic sack contrary to the claim made that the contrabands were found in plastic sacks. The

ground of arrest was communicated to the arrestee soon after arrest on the same date i.e. on 21.01.2026 thus within reasonable time.

[35] In the instant case, a total of 1,07,800 (One lakh seven thousand eight hundred) bottles of Eskuf cough syrup bearing batch numbers PEKSL 141, 123,128 and 131. Out of that lot, 90,000 (Ninety thousand) bottles of Eskuf cough syrup belonged to batch numbers PEKSL 141. During course of investigation it was learnt that the accused person, who is the proprietor of the firm D.P Enterprise purchased 90,000 (Ninety thousand) bottles of Eskuf cough syrup bearing batch numbers PEKSL 141 from another firm R.S Pharma and then transported the entire consignment to Tripura at Jirania railway station through Golden Roadways and Logistic Services Ltd. without any valid order or documentation for the purpose of illicit trade. Moreover, during investigation several evidences have come up against the accused person.

[36] It is not a fact that the copy of remand application or application for showing arrest was not furnished either to the accused or to his counsel prior to or at the time of consideration or that meaningful and effective opportunity to oppose the same was not given to the accused or that the remand proceedings is fundamentally vitiated. A copy of prayer for showing arrest and remand application was submitted to the learned counsel of the accused through the learned PP which is also evident from perusal of the written objection submitted by the accused opposing police remand submitted before the learned Special Judge.

[37] In view of overall discussion and having gone through the principle laid down by the Hon'ble Apex Court we are of the view that if a person is arrested on a warrant, the grounds for reasons for the arrest is the warrant itself, if the warrant is read over to him, that is sufficient compliance with the requirement that he should be informed of the grounds for his arrest. If he is arrested without a warrant, he must be told why he has been arrested. If he is arrested for committing an offence, he must be told that he has committed a certain offence for which he should be placed on trial. In order to inform him that he has committed certain offence, he must be told of the acts done by him which amounts to the offence. He must be informed of the precise acts done by him for which he would be tried informing him merely of the law applicable to such acts would be enough.

[38] The argument as advanced by Mr. R. Datta, learned P.P. appearing for the respondent-State is that due procedure has been followed in Tripura, police did not arrest him, he was brought by UP police. He was produced before the Court and arrest was shown and all the documents pertaining to arrest were submitted under proper acknowledgment and then he was remanded. The entire procedure has been followed and it does not attract Habeas Corpus and there was alternative remedy under BNSS to take steps before the competent Court of law, but not in this petition and the same needs to be dismissed.

[39] Now, for examining this case, since the prayer is made under Article-226 of the Constitution of India and a writ of habeas corpus for restoration of the petitioner's personal liberty, the question about the maintainability of a petition for a writ of habeas corpus came up for consideration before their Lordships of the Supreme Court in *Tejaswini Gaud and others vs. Shekhar Jagdish Prasad Tewari and others*, (2019) 7 SCC 42. The question has been elaborately examined by their Lordships in *Tejaswini Gaud*, and it has been held:

“19. Habeas corpus proceedings are not to justify or examine the legality of the custody. Habeas corpus proceedings is a medium through which the custody of the child is addressed to the discretion of the Court. Habeas corpus is a prerogative writ which is an extraordinary remedy and the writ is issued where in the circumstances of the particular case, ordinary remedy provided by the law is either not available or is ineffective; otherwise a writ will not be issued. In child custody matters, the power of the High Court in granting the writ is qualified only in cases where the detention of a minor by a person who is not entitled to his legal custody. In view of the pronouncement on the issue in question by the Supreme Court and the High Courts, in our view, in child custody matters, the writ of habeas corpus is maintainable where it is proved that the detention of a minor child by a parent or others was illegal and without any authority of law.”

[40] It has been contended by the learned counsel appearing for the accused that on the basis of a confession made by a co-accused, which is inadmissible in law, cannot form the basis for either arrest or custodial interrogation of the present accused but in the Hon'ble Apex Court in *State through Superintendent of Police, CBI/SIT v. Nalini and Others*, reported in (1999) 5 SCC 253 has observed that a confessional statement of a co-accused can be used against other accused on corroboration. For the purpose of reference, the relevant paragraphs may be extracted herein below:

“424. In view of the above discussions, we hold the confessions of the accused in the present case to be voluntarily and validly made and under Section 15 of

TADA confession of an accused is admissible against co-accused as a substantive evidence. Substantive evidence, however, does not necessarily means substantial evidence. It is the quality of evidence that matters. As to what value is to be attached to a confession will fall within the domain of appreciation of evidence. As a matter of prudence court may look for some corroboration if confession is to be used against a co-accused though that will again be with the sphere of appraisal of evidence.

697. In the cases referred above, it was held that the confession of a co-accused is not evidence as defined in Section-3 of the Evidence Act and that SECTION-30 ENABLES THE Court to take into consideration the confession of a co-accused to lend assurance to other evidence against the co-accused. The expression “may take into consideration” means that the use of the evidence of confession of an accused may be used for purposes of corroborating the evidence on record against the co-accused and that no conviction can be based on such confession.”

[41] Here in the present case, on perusal of the documents, it is found that on 27.09.2025 R.S. Pharma sold Eskuf Cough Syrup to one D.P. Enterprise and it is established that D.P. Enterprise is owned by Deep Prakash Gupta, the accused person herein. As per statement of the co-accused it reveals that after receiving the cases of Eskuf Syrup of the batch bearing No. PEKSL 141 (Mfg Date 09/25, Exp.08/27 repacked the Eskuf syrup cases with thermocol padding and over that red and green colour plastic sacks in his store with the help of already arrested accused Saurav Tyagi for concealment of contraband. And subsequently the said eskuf cough syrup from the co-conspirator accused transported them to Tripura through railways and then distributed the same to their accomplices.

[42] The reason of arrest has been mentioned in the arrest memo prepared on 21.01.2026 duly signed by the arrestee. The accused person was already previously arrested and was under judicial custody in connection with Nandgram police station case No.0691/2025 dated 04.11.2025 and was produced before the learned Court in compliance with the production warrant issued under Section-267 BNSS and after that the accused person was shown arrested in the present case. It is evident that the accused person was served a copy of the production warrant by the officials of District Jail, Ghaziabad, Dasna, Uttar Pradesh on 17.01.2026. Thus, it is not a fact that the copy of the warrant issued by the learned Special Judge, West Tripura was not made available to the accused. In view of above, the requirement under habeas corpus will not attract, since in the present case he was already arrested.

[43] It is seen from the above prayers i.e. (b) he prays for writ of certiorari and in (c) writ of Habeas Corpus, but the ingredients of habeas corpus is for production of a person in the event of unlawful detention or to identify a missing person if unlawfully taken away by the government authorities/police. Here is the case where specific arrest has been shown thus, it cannot be said that it is unauthorizedly the accused person is taken away. Once a person is shown arrest, the accused is having sufficient means for taking legal steps under BNSS/criminal jurisprudence. Insofar as writ of certiorari is concerned, the prayer what he has sought for in the present fact and circumstances, the writ of certiorari is not maintainable and thus, the matter cannot be adjudicated under writ of certiorari.

[44] The observation made on the point of writ jurisdiction as well as on the point of execution of warrants, it cannot be said that there was legal infirmities committed by the respondents and infact, the petitioner has not availed appropriate remedies under law and therefore, the writ itself is misconceived and the petitioner is not entitled for any relief and the writ is liable to be dismissed. The police officers are only complying with the judicial orders so, by executing the warrants. In the absence of terminology of production of warrant, transit warrant or arrest warrant, it cannot be said that there is a violation of the above warrants by the officers in the absence of specific explanation in the BNSS. For the purpose of reference, let us have glimpse upon the definition of warrant/production warrant or transit warrant or remand under BNSS:

“Warrant is the next step after summons to ensure the presence of a person at trial. A warrant of arrest is a written authority given by a competent Magistrate for the arrest of a person. They have been covered under Section 72-83 of the BNSS, 2023. In Cr.P.C., they were contained from Section 70-81. It is different from a warrant for search which shall be covered later.

Form and contents of warrant of arrest:

The form of the warrant is mentioned in Section 72(1). A warrant is always in writing. It is not issued in an electronic form as it has to be executed by some officer. The warrant of arrest should be signed by the presiding officer of the court and it should also bear the seal of the court issuing it.

Warrant of arrest (Sections-72-83): A warrant is a written (or electronic) order from a court to a police officer (or another person) to apprehend a person.

Key features: Warrants must be signed and sealed, and can be executed anywhere in India.

Execution outside jurisdiction (Section-80-82) : Warrants can be forward for execution to authorities outside the local jurisdiction. Section-82(2) mandates

immediate notification to local police when making arrest outside the district, ensuring increased accountability.

Under the BNSS, transit warrants (linked to Sections-82, 187) and production warrants (or PT Warrants) are procedural tools for moving an accused between jurisdictions or from custody to Court. These enable police to transport an accused for trial (transit) or bring a prisoner from prison to Court for another case (production) while ensuring compliance with Article-22 of the Constitution.

Production warrant (P.T. Warrant) under BNSS:

Purpose: Known as a prisoner or transit warrant (P.T. Warrant) this is issued to bring a person already in jail (in another case or state) before a Court for a new case.

Execution: A warrant is issued to the jailer to bring the prisoner to the specific Court.”

[45] The Hon’ble Apex Court in catena of judgments had held that when a person is arrested pursuant to a warrant, the obligation to separately communicate the grounds of arrest under Article 22(1) of the Constitution does not arise, as the warrant itself constitutes the grounds for the arrest to be supplied to the arrestee under Article 22(1). In the present case both the provision of law as well as the grounds of arrest, can be made out, on a conjoint reading of the notice under Section-47, the grounds of arrest, 48 of BNSS and the remand report which were all served on the arrestee and a copy of the ground of arrest was served to the arrestee and his sister-in law, the petitioner herein. The ground of arrest was communicated to the arrestee soon after arrest on the same date i.e. 21.01.2026, thus within the reasonable time. The reason of arrest has been mentioned in the arrest memo prepared on 21.01.2026 duly signed by the arrestee.

[46] In the present case, on perusal of the order dated 03.01.2026 passed in connection with this case it appears that vide this order the Court had issued production warrant against the accused person which order appears to have been complied with on 05.01.2026 by transmitting the production warrant against the accused to the Superintendent, Dasna District Jail, Gaziabad, U. P. vide No.14 dated 05.01.2026. As per records obtained from District Jail, Ghaziabad it is evident that accused person was served a copy of production warrant by the officials of District Jail, Ghaziabad, Dasna, Uttar Pradesh on 17.01.2026.

[47] After considering the written objection submitted by the accused, the learned Special Judge (NDPS), Court No.4, West Tripura, Agartala allowed the

application submitted by investigating officer for showing arrest and police remand. So, subsequently the accused cannot raise the plea that the ground of arrest was not communicated to him as in the arrest memo, production warrant and written objection categorically mentions the reasons of arrest and subsequently the grounds of arrest have been communicated to him in his native language i.e. Hindi and the grounds of arrest were also explained to him.

[48] In the overall view of the matter more particularly having gone through the grounds of arrest, we have reached the conclusion that the requirement principle laid down by the Hon'ble Apex Court, could be said to have been fulfilled and we do not find any merit in this petition. Accordingly, the same is dismissed. As a sequel, miscellaneous application pending, if any, shall stand closed.

S. DATTA PURKAYASTHA, J

DR.T. AMARNATH GOUD, J

A. Ghosh

ANJAN GHOSH Digitally signed by ANJAN GHOSH
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