

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

B.A. No.41 of 2026

Sri Nepal Chandra Modak,

S/O Lt. Chitta Ranjan Modak, (Aged about 48 years), resident of Kalyanpur, Amar Colony, P.S. Kalyanpur, Dist Khowai Tripura, PIN 799203.

..... **Applicant(s)**

The accused person being lodged in judicial custody, the present petition is preferred and presented by the elder brother of accused person.

Sri Gopal Modak,

S/O Lt. Chitta Ranjan Modak, (Aged about 34 years), resident of Kalyanpur, Amar Colony, P.S. Kalyanpur, Dist Khowai Tripura, PIN 799203.

..... **Custody Accused Person(s)**

- V e r s u s -

The State of Tripura,

(Represented by the Secretary, Home Department), Government of Tripura, Agartala.

.....**Respondent(s)**

For the Applicant(s)	:	Mr. Janardhan Bhattacharjee, Advocate. Mr. Sajib Ghosh, Advocate.
For the Respondent(s)	:	Mr. Raju Datta, P.P.
Date of hearing	:	20th March, 2026.
Date of delivery of Judgment & Order	:	31st March, 2026.

Whether fit for reporting :

YES	NO
	√

HON'BLE MR. JUSTICE S. DATTA PURKAYASTHA

JUDGMENT & ORDER

This bail application is filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short BNSS) praying for bail of accused Gopal Modak in connection with Teliamura PS case No.76 of 2025 [later on renumbered as ST (T-1) 04 of 2026] pending in the Court of learned Addl. Sessions Judge, Khowai under Section 103(1) of Bharatiya Nyaya Sanhita, 2023 (for short BNS).

[2] The accused person was arrested on 05.10.2025 and since then, he is in custody.

[3] Allegation against him as surfaced in the charge-sheet that he has committed murder of his wife Sharmistha Modak in her house at Nayabari in the night of 29.09.2025. He used to reside in a separate house from his wife and for committing her murder, he went to the house of his wife on that day by his motor cycle bearing No.TR06 C-7394 with two ORS drink packets and thereafter, mixing sleeping pills in one of the packet, administered it to the deceased. When she fell asleep, he killed her with a pillow by suffocating her. The investigating officer has also relied on his disclosure statement based on which key of the lock of the house of the deceased was recovered from the pocket of one of his pant kept in his house. Though he also disclosed to the police that he had thrown the mobile phone of the deceased in the pipeline of his toilet, but the SIM card could not be recovered despite attempt made by the police. The CDR analysis report of the mobile phone of the accused and deceased also indicated that on the alleged day of incident, both the deceased and the accused talked with each other over phone on eleven occasions and last call was made at 23:28:32 hours and tower location also suggested that on that night, he was at Nayabari area.

[4] One of the witnesses namely, Dipankar Shil, in his statement before police officer states that by profession he is a driver and on the alleged night of incident, the accused had requested him to give a trip, but as he was busy with other trips, he could not go there. Thereafter, on 6/7 times, the accused called him over phone and then he came to Nayabari area at around 3.00 am in the dawn. The accused then took him in a house where he was alone and there was no light in that house. Thereafter, the accused showed one sack and told him that there were some articles inside it. Then out of fear, said witness refused to give any trip to him and returned.

[5] Police also recorded statement of another witness namely, Sudip Biswas, a pharmacy owner under whom the accused was an employee and he stated that on 29.09.2025, at around 10.00 pm in the night, the accused left the shop and joined his duty again on the following day in the evening and he did not attend his duty during day hours.

[6] The post mortem report of the deceased shows that the body of the deceased was decomposed but doctor had opined that death was caused due to asphyxia and it was homicidal in nature and time since death was approximately 7-8 days prior to the date of post mortem examination. Police also seized two numbers of empty packets of ORS from the house of the deceased as shown by the accused along with one mobile charger and one pillow. As per the forensic examination report, clonazepam, a benzodiazepine group of drug was detected from the extract of the powdery substance sticking to the inner wall of one of the seized ORS packet.

[7] On conclusion of the investigation, police based on these materials submits the charge-sheet under Section 103(1) of BNS, 2023. Along with the charge-sheet, police also prays for custody trial of the accused applicant on the ground that if released on bail, the accused would threaten or influence the vital witnesses who hail from his locality; he may repeat the offence and also there is probability that he may abscond.

[8] Mr. Janardhan Bhattacharjee, learned counsel for the accused applicant submits that as per the report of autopsy surgeon, the dead body was totally decomposed and therefore, his opinion that there was asphyxia in the corpse and that it was a homicidal death, is doubtful. However, learned counsel admits that this factor is required to be examined during trial and not at this stage. Learned counsel also submits that the accused is in custody for 155 days and charge-sheet is submitted in this case within 90 days. He also contends that there is no prima facie material against the accused person and there is no direct evidence against him and on mere suspicion he has been arrested. The accused also has no criminal antecedent.

[9] Mr. Bhattacharjee, learned counsel also points out that despite the custody trial prayer was rejected by learned Addl. Sessions Judge vide order dated 20.02.2026, bail prayer was rejected with a general observation that considering the gravity of offence and the degree of involvement of the accused in the alleged offence. Learned counsel further submits that there is no specific reason assigned in the order passed by learned Trial Court regarding rejection of the bail prayer of the accused. The accused has his permanent home and hearth at his given address and there is no chance of his

abscondence. Moreover, Mr. Bhattacharjee submits, the accused will not make any contact with any of the witness of the case and bail may be granted to him on any condition.

[10] Mr. Raju Datta, learned P.P. relying on the statements of the witnesses and other materials as placed with the charge-sheet submits that there are prima facie materials regarding involvement of the accused person in the commission of alleged crime and moreover, above said Dipankar Shil and Sudip Biswas are vital witnesses of the case who are very close to the accused and if released on bail, the accused will try to influence these witnesses and therefore, bail petition may be rejected.

[11] While taking note of the submissions of both sides and the materials available in the record, some of which are already indicated earlier, it is found that there are prima facie materials regarding involvement of the present accused applicant in the commission of alleged crime. No doubt, it is a heinous category of offence and prescribed punishment is also either death sentence or sentence for imprisonment for life. However, while reiterating the principles or parameters regarding consideration of prayer for bail, in **Sanjay Chandra vs. Central Bureau of Investigation; (2012) 1 SCC 40** reference was made to another decision of Hon'ble Supreme Court in **State of U.P. vs. Amarmani Tripathi; (2005) 8 SCC 21** wherein such parameters for consideration of bail application were stated and relevant paragraph No.18 of **Amarmani Tripathi (supra)** as extracted in **Sanjay Chandra (supra)** is reproduced hereunder:

“38.....

“18. It is well settled that the matters to be considered in an application for bail are (i) whether there is any prima facie or reasonable ground to believe that the accused had committed the offence; (ii) nature and gravity of the charge; (iii) severity of the punishment in the event of conviction; (iv) danger of the accused absconding or fleeing, if released on bail; (v) *character, behaviour, means, position and standing of the accused*; (vi) likelihood of the offence being repeated; (vii) *reasonable apprehension of the witnesses being tampered with*; and (viii) *danger, of course, of justice being thwarted by grant of bail* [see *Prahlad Singh Bhati v. NCT, Delhi* , (2001) 4 SCC 280 and *Gurcharan Singh v. State (Delhi Admn.)*, (1978) 1 SCC 118]. While a vague allegation that the accused may tamper with the evidence or witnesses may not be a ground to refuse bail, if the accused is of such character that his mere presence at large would intimidate the witnesses or if there is material to show that he will use his liberty to subvert justice or

tamper with the evidence, then bail will be refused. We may also refer to the following principles relating to grant or refusal of bail stated in *Kalyan Chandra Sarkar v. Rajesh Ranjan*, (2004) 7 SCC 528: (SCC pp. 535-36, para 11)

“11. The law in regard to grant or refusal of bail is very well settled. The court granting bail should exercise its discretion in a judicious manner and not as a matter of course. Though at the stage of granting bail a detailed examination of evidence and elaborate documentation of the merit of the case need not be undertaken, there is a need to indicate in such orders reasons for prima facie concluding why bail was being granted particularly where the accused is charged of having committed a serious offence. Any order devoid of such reasons would suffer from non-application of mind. It is also necessary for the court granting bail to consider among other circumstances, the following factors also before granting bail; they are:

- (a) The nature of accusation and the severity of punishment in case of conviction and the nature of supporting evidence.
- (b) Reasonable apprehension of tampering with the witness or apprehension of threat to the complainant.
- (c) Prima facie satisfaction of the court in support of the charge. (See *Ram Govind Upadhyay v. Sudarshan Singh*, (2002) 3 SCC 598 and *Puran v. Rambilas*, (2001) 6 SCC 338.)”

22. While a detailed examination of the evidence is to be avoided while considering the question of bail, to ensure that there is no prejudging and no prejudice, a brief examination to be satisfied about the existence or otherwise of a prima facie case is necessary.”

[12] In the case in hand, learned Trial Court has rejected the prayer for custody trial of the accused as submitted by the investigating officer and said order has remained unchallenged by the prosecution. By profession, the accused was an employee of a medicine shop which indicates that he is not a very influential person. He is a resident within the jurisdiction of learned Trial Court. Nothing is there that his antecedent is bad. No allegation is also found that on any occasion he had tried to influence any person acquainted with the fact of the case, directly or indirectly. However, the apprehension of learned P.P. that if released on bail, he may try to influence the witnesses of the case more particularly, above said two witnesses, is also required to be taken care of. Simultaneously, it is also required to be kept in mind that pre-trial detention has substantial punitive content in it as was observed by Hon'ble Supreme Court in *Sanjay Chandra (supra)*.

[13] Considering all these aspects, it appears to the Court that the accused applicant may be released on bail with certain stringent conditions as

for a considerable period, he is already in custody and investigation is also completed meanwhile.

[14] In view of the above, the bail application is allowed. Accused Gopal Modak may go on bail on furnishing a bond of Rs.1,00,000/- (*Rupees one lakh*) with one surety of the like amount on conditions that-

- i. the surety must be a permanent resident of Tripura;
- ii. the accused person will not try to terrorize or influence any witness of the case and will not try to make any contact, either directly or indirectly, with them. The investigating officer will have the liberty to have a watch on this aspect;
- iii. the accused will regularly attend the Court to face trial and will give his attendance once in every fortnight before the learned Trial Court till trial is completed or till the condition is relaxed by the learned Trial Court.
- iv. he will not leave the State of Tripura without prior permission of the learned Trial Court.
- v. he will provide his new cell phone number, if any, to the learned Trial Court and also to the O/C of Teliamura P.S. and will not change or hand over the SIM card to anyone else till the trial is completed.

With such observation and direction, the bail application is disposed of.

Re-consign the Trial Court record.

Send a copy of this order immediately to learned Trial Court.

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

JUDGE