

**HIGH COURT OF TRIPURA****AGARTALA****BA 80 OF 2026**

Sri Bithu Dey,
S/o Lt. Ajoy Dey,
R/o Arengabad, P.O. Chargola Bazar,
P.S. Badarpur, Dist. Sribhumi,
State: Assam-788713.

--- Applicant/Petitioner.

On behalf of

Smt. Madhabi Dey,
R/o Arengabad, P.O. Chargola Bazar,
P.S. Badarpur, Dist. Sribhumi,
State: Assam-788713.

Versus

The State of Tripura, represented by the
Principal Secretary to the Government of Tripura,

--- Respondents.

For the Applicant/Petitioner(s): Mr. Debajit Biswas, Advocate.
Mr. Arnab Kar, Advocate.
Mr. Daulat Roy, Advocate.

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

HON'BLE MR. JUSTICE S. DATTA PURKAYASTHA

ORDER

20.05.2026

Heard learned counsels of both sides.

2. The bail petition has been filed praying for bail of the accused Madhavi Dey, in connection with Teliamura P.S. Case No. 72 of 2025, registered under Sections 20(c)/29 of NDPS Act., 1985 which is later on renumbered as Special (NDPS) Case No.02/2026 in the Court of learned Special Judge, Khowai District, Tripura.

3. The allegation made in the FIR is that on 10.09.2025, from the Teliamura Railway Station 290.33 gram of heroin was recovered by the police from

the possession of accused. Accordingly, she was detained in the PS and on 11.09.2025, she was shown arrested.

4. Learned counsel, Mr. D. Biswas for the petitioner submits that the accused is in custody from 11.09.2025 i.e. from the date of her arrest and the petitioner is seeking bail of the accused on the ground that 'ground of arrest' was not communicated to the accused rendering the arrest illegal. Learned counsel also submits that there are serious suspicious circumstances which create a situation to presume that the alleged document containing 'ground of arrest' is subsequently manufactured by the I.O. The reason for such presumption, according to learned counsel, is that in the arrest memo it was not mentioned that 'ground of arrest' was communicated to the accused in a separate sheet of paper. In the forwarding report, at the time of first production of the accused before the Court, nothing was also mentioned therein that 'ground of arrest' was communicated to her separately. According to learned counsel, Mr. Biswas, even a copy of any such document was never placed before the learned Special Judge and even in the charge-sheet also nothing was mentioned in this regard and therefore, there are serious suspicion that the communication of 'ground of arrest' was subsequently manufactured.

5. In support of his submission, learned counsel Mr. Biswas relies on a decision of Allahabad High Court in case of ***Habeas Corpus Writ Petition No.47 of 2026*** in between ***Shivam Chaurasiya vs. State of UP***, decided on February 10, 2026, wherein the Hon'ble High Court at paragraph 25 observed thus—

“25. The said separate grounds of arrest have been perused by the Court but no confidence or trust can be reposed on the said grounds of arrest which are alleged to have been supplied separately to the petitioner. The reasons are not far to seek. Apart from the fact that the said reasons for arrest are separately provided on separate paper and do not form part of the arrest memo, the other aspect of the matter is that neither column 12 nor column 13 of the arrest memo dated 28.01.2026 nor anywhere in the arrest memo has it been indicated that the grounds of arrest are being given separately. Further the column no.13 and sub columns pertaining to providing grounds of arrest have been left blank. As such, there can be no occasion to accept that grounds of arrest has been duly supplied to the arrestee.....”

(emphasis underscored)

6. Learned counsel, Mr. Biswas also relies on another decision of Hon'ble Supreme Court in the case of ***Vihaan Kumar vs. State of Haryana & Anr., (2025) 5 SCC 799***, wherein at paragraph no.23 Hon'ble Supreme Court observed that in the said case, the first respondent relied upon an entry in the case diary which recorded that the appellant was arrested after informing him the ground of

arrest. In that context, Hon'ble Apex Court observed further that if the police wanted to prove communication of ground of arrest only based on a diary entry, it was necessary to incorporate those grounds of arrest in the diary itself or in any other document.

7. Learned P.P., however, opposes the prayer after placing the case diary and submits that ground of arrest was properly communicated to the accused in a separate sheet of paper which the accused herself acknowledged by putting her signature.

8. Court has considered the submissions of both sides. It is found that the 'ground of arrest' was duly communicated to the accused on 11.09.2025 itself in a separate sheet of paper, wherein the accused person herself put her signature. Even in the forwarding report, regarding production of accused before the learned Special Judge for the first time, it was also categorically mentioned by the I.O. that ground and reason of arrest was informed to the arrestee in writing. Therefore, according to this Court, it was not further obligatory for the arresting officer that the fact of communication of 'ground of arrest' in a separate sheet of paper had to be mentioned in every document prepared by him such as arrest memo, charge-sheet, etc. However, whenever suspicion arises regarding communication on said ground of arrest by the police officer, certainly burden lies on the prosecution to prove it. However, after prosecution discharges such burden to the satisfaction of the Court, and thereafter also if further challenges come from the accused that the same was not communicated, certainly onus to prove the said fact will shift to the accused. In the case in hand, this Court does not find anything to infer that 'ground of arrest' was not communicated to the accused. Accordingly, the bail application is rejected.

9. Return the L.C. record along with a copy of this order.

10. Also return the C.D. to learned P.P. along with a copy of this order.

JUDGE

SAIKAT KAR

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Date: 2026.05.22 15:00:46 +05'30'

sanjay