

HIGH COURT OF TRIPURA
A G A R T A L A
AB No.25 of 2026

Hachina Khatun,
Wife of Kabir Hossen Sarkar, resident of Rangamati, Ward No. 05, P.S.
Sonamura, Sepahijala, Tripura.

..... Applicant/Petitioner(s)

- V e r s u s -

The State of Tripura

.....Respondent(s)

For the Applicant/Petitioner(s) : Mr. Somik Deb, Senior Advocate.
Mr. Jishan Samed, Advocate.

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

Date of hearing : **22nd May, 2026.**

Date of delivery of Order : **3rd June, 2026.**

Whether fit for reporting :

YES	NO
	√

HON'BLE MR. JUSTICE S. DATTA PURKAYASTHA
ORDER

Heard learned counsel of both sides.

[2] This pre-arrest bail has been sought for accused Hachina Khatun in connection with Sonamura P.S. case No.76 of 2025. On 09.09.2025, according to the police, they recovered 12.96 gm of heroin which is of intermediate quantity from the house of the petitioner and her husband was arrested. But, the petitioner was found absconding.

[3] Mr. Somik Deb, learned senior counsel submits that based on the statement made by her husband before the police, the petitioner has been implicated in this case and moreso, the quantity of the seized contraband items is of intermediate quantity though the case has been wrongly registered involving commercial quantity. According to Mr. Deb, learned senior counsel, though warrant has been issued against the present petitioner but no

proclamation has yet been issued and there is no absolute bar for granting anticipatory bail to a person who has not been declared as a proclaimed offender. In this regard, learned senior counsel relies on a decision of Hon'ble Supreme Court in the case of **Asha Dubey vs. State of Madhya Pradesh, 2024 SCC OnLine SC 5633** wherein it is observed by the Apex Court that in the event of 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. To support his contention that the statement of the co-accused cannot be taken into consideration, learned senior counsel also relies on two decisions of Hon'ble Supreme Court in cases of **Tofan Singh vs. State of Tamil Nadu, (2021) 4 SCC 1** and **P. Krishna Mohan Reddy vs. State of Andhra Pradesh, 2025 SCC OnLine 1157**.

[4] Mr. Raju Datta, learned P.P., however, opposes the prayer. According to him, warrant is already issued against the present petitioner and therefore, she is not entitled to get benefit of pre-arrest bail. In support of his contention, he relies on a decision of Hon'ble Supreme Court in case of **Srikant Upadhyay and others vs. State of Bihar and another, Criminal Appeal No..... of 2024** arising out of **Special Leave Petition (Crl.) No.7940 of 2023** decided on 14.03.2024 wherein at paragraph No.24 it is held that power to grant anticipatory bail is an extraordinary power. Though in many cases it is 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 is also observed that when warrant of arrest or proclamation is issued, the applicant is not entitled to invoke the extraordinary power but certainly, this will not deprive the power of the Court to grant pre-arrest bail in extreme and exceptional cases.

[5] On examination of the materials placed in the record, it appears that the petitioner was found absconding when police raided her house on 09.09.2025. Till date, for such a long period, she is being found absconding and the learned Special Judge has also issued warrant of arrest against her vide order dated 01.04.2026. Charge-sheet is submitted showing her absconder. There are certain materials that she was engaged with her husband in such drug trafficking.

[6] Considering all these aspect, it does not appear to be a case of extra ordinary situation for extending the benefit of pre-arrest bail and accordingly, the bail prayer is rejected.

Re-consign the Trial Court record along with a copy of this order.

Return the case diary to learned P.P.

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

JUDGE

