

HIGH COURT OF TRIPURA
A G A R T A L A
B.A. No.95 of 2026

Smt. Susmita Shukla Das,
W/o Sri Tapas Paul, resident of West Para, Village Durgapur, P.S. P.R. Bari,
Belonia, District South Tripura.
..... Petitioner(s)

For and on behalf of
Sri Tapas Paul,
S/o Shri Kaun Paul, resident of West Para, Village Durgapur, P.S. P.R. Bari,
Belonia, District South Tripura.
..... Accused Person
(In custody since 27.02.2025)

- V e r s u s -

Union of India,
Represented by the Secretary, Ministry of Home Affairs, Government of India,
New Delhi
.....Respondent(s)

For the Petitioner/Accused Person(s) : Mr. Kundan Pandey, Advocate.
For the Respondent(s) : Mr. Koushik Datta, Advocate.
Date of hearing : **15th May, 2026.**
Date of delivery of
Judgment & Order : **3rd June, 2026.**

Whether fit for reporting :

YES	NO
√	

HON'BLE MR. JUSTICE S. DATTA PURKAYASTHA
JUDGMENT & ORDER

Heard learned counsel of both sides.

[2] The accused is facing the trial for the charges framed under Sections 22(C)/23(C)/25A of the NDPS Act, 1985, on the allegations that on 27.02.2025, 9 Kgs of Yaba tablets containing Methamphetamine was recovered from a vehicle bearing No. TR-01-AU-1710 worth of Rs.9,11,00,000/- which was concealed in driver's cabin and the present accused was the driver of said vehicle. The accused was accordingly arrested

on 27.02.2025 and produced before the Court of learned Special Judge (NDPS), Khowai on the same day.

[3] Record shows on that day he was not represented by any advocate of his own choice, however, the Deputy Chief Legal Aid Defence Counsel appeared for him and prayed for bail, but said prayer was rejected and he was remanded to JC till 13.03.2025. On 13.03.2025, another counsel appeared for him being engaged by him and submitted a separate bail application stating that the family members of the accused person was suffering from serious illness and required better treatment. Said bail application was also rejected.

[4] On 25.08.2025, the investigating officer submitted the charge-sheet and charges were framed against him by learned Special Judge (NDPS), Court No.2, Khowai on 04.10.2025. The calendar for examination of witnesses was framed from 10.03.2026 to 13.03.2026 and on 10.03.2026, one witness was examined and on 11.03.2026, another witness was partly examined. Thereafter, another date is fixed on 12.06.2026 i.e. almost after three months for cross-examination of only PW-1.

[5] Mr. Kundan Pandey, learned counsel for the petitioner submits that the trial is going in a very slow pace and only for part cross-examination of one witness, the date has been fixed and that is too after three months and no calendar has yet been fixed for examination of other witness, though the accused is in custody for more than 442 days as on today.

[6] Another ground as raised by Mr. Pandey, learned counsel is that the grounds of arrest was not duly communicated to the accused person in his own language and even same was also not communicated to his family members. In this regard, learned counsel relies on a decision of Hon'ble Supreme Court in the case of **Kasireddy Upender Reddy vs. State of Andhra Pradesh and others, 2025 SCC OnLine SC 1228** decided on 23.05.2025. In that case, the Hon'ble Supreme Court at paragraph No.18 held that the requirement of informing the person arrested of the grounds of arrest is not a formality but a mandatory constitutional condition and it is necessary that the person concerned must understand on what grounds he has been

arrested. The mode of conveying the information of the grounds of arrest must be meaningful so as to serve the true object underlying Article 22(1) of the Constitution. It was also further observed that the grounds of arrest should not only be provided to the arrestee but also to his family members and relatives so that necessary arrangements are made to secure the release of the person arrested at the earliest possible opportunity so as to make the mandate of Article 22(1) meaningful and effective, failing which, such arrest may be rendered illegal.

[7] Mr. Pandey, learned counsel also relies on another decision of the Hon'ble Supreme Court in the case of ***Kanishk Sinha and another vs. State of West Bengal and another, 2025 SCC OnLine SC 443*** wherein it was observed that a law made by the legislature is always prospective in nature unless it has been specifically stated in the statute itself about its retrospective operation and the reverse is true for the law which is laid down by a Constitutional Court, or law as it is interpreted by the Court. The reason for relying on this decision by Mr. Pandey, learned counsel is that the accused person was arrested prior to the decision of ***Kasireddy (supra)***. In ***Kasireddy (supra)***, reference was also made to another decision of Hon'ble Supreme Court in case of ***Vihaan Kumar vs. State of Haryana and another, 2025 SCC OnLine SC 269*** wherein it is held by the Apex Court that as far as Article 22(1) is concerned, compliance can be made by communicating sufficient knowledge of the basic facts constituting the grounds of arrest to the accused person arrested. The grounds should be effectively and fully communicated to the arrestee in the manner in which he will fully understand the same. Therefore, it follows that the grounds of arrest must be informed in a language which the arrestee understands.

[8] Mr. Pandey, learned counsel further refers to a judgment of Kerala High Court in the case of ***Basheer Thaliyil vs. State of Kerala, represented by the Public Prosecutor and another, 2026 SCC OnLine Ker 2338*** wherein referring to above said judgment of ***Kasireddy (supra)*** and another judgment of Hon'ble Supreme Court in case of ***Mihir Rajesh Shah vs. State of Maharashtra, (2026) 1 SCC 500*** and also a judgment of Single Bench of Kerala High Court in case of ***Alvin Riby vs. State of Kerala, 2025 KER***

67079, observes that failure to communicate the grounds of arrest to the near relatives renders the arrest illegal.

[9] Mr. Pandey, learned counsel also relies on another decision of Apex Court in the case of **Rajadurai vs. the State of Tamil Nadu, decided on 05.05.2026 in Special Leave to Appeal (Crl.) No.4729 of 2026** wherein the Hon'ble Court applying the discretion granted bail to the accused person in a case of commercial quantity of contraband items where accused was in custody for more than one year. Mr. Pandey, learned counsel further relied on the decision of Hon'ble Supreme Court in the case of **Dr. Rajinder Rajan vs. Union of India and another, 2026 LiveLaw (SC) 327** wherein also it is observed by the Apex Court that it is no longer *res integra* that supplying the grounds of arrest to the accused in writing before the arrest or, in a given case, under exceptional circumstances, immediately thereafter, is the mandate of the constitutional guarantees provided under Article 22(1) read with Article 21 of the Constitution of India. The decision of Hon'ble Supreme Court in case of **Mihir Rajesh Shah (supra)** was also referred.

[10] Mr. Koushik Datta, learned counsel for the respondent submits that exhaustively the grounds of arrest was intimated to the accused just after his arrest and it was also certified by the arresting authority that grounds of arrest was explained to the arrested person in his own language. Learned counsel also further refers to the arrest memo of the accused wherein the accused person has certified that the fact of his arrest was informed to his wife, Susmita Das through her mobile phone bearing No.9362711549 from phone no. 7662875083. Therefore, there was full compliance of Article 22 (1) of the Constitution and Section 48 of BNSS.

[11] Court has considered the submission of both sides.

[12] In **Vihaan Kumar (supra)** it is held by the Apex Court that the requirement of informing the person arrested of the grounds of arrest is not a mere formality but a mandatory constitutional requirement. It is the fundamental right of every person arrested and detained in custody to be informed of the grounds of arrest as soon as possible. If the grounds of arrest are not informed as soon as may be after the arrest, it would amount to a

violation of the fundamental right of the arrestee guaranteed under Article 22(1). It will also amount to depriving the arrestee of his liberty. Hon'ble Supreme Court in that case finally concludes that 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 is communicated to the arrested person effectively in the language which he understands. The mode and method of communication must be such that the object of the constitutional safeguard is achieved and non-compliance with the requirements of Article 22(1) vitiates the arrest of the accused. At paragraph No.26.5, it was also directed that when an arrested person is produced before a Judicial Magistrate for remand, it will be the duty of the Magistrate to ascertain whether compliance with Article 22(1) and other mandatory safeguards has been made.

[13] In said judgment, in the supplementing notes, His Lordship, Hon'ble Mr. Justice N. Kotiswar Singh further observes that said constitutional mandate has been incorporated in the statute under Section 50, CrPC (Section 47 of BNSS). The aforesaid provision of requirement for communicating the grounds of arrest, to be purposeful, is also required to be communicated to the friends, relatives or such other persons of the accused as may be disclosed or nominated by the arrested person for the purpose of giving such information as provided under Section 50A of CrPC. It is also further observed by His Lordship that the purpose of inserting Section 50A of CrPC, making it obligatory on the person making arrest to inform about the arrest to the friends, relatives or persons nominated by the arrested person, is to ensure that they would be able to take immediate and prompt actions to secure the release of the arrested person as permissible under the law. The arrested person, because of his detention, may not have immediate and easy access to the legal process for securing his release, which would otherwise be available to the friends, relatives and such nominated persons by way of engaging lawyers, briefing them to secure release of the detained person on bail at the earliest. Therefore, the purpose of communicating the grounds of arrest to the detainee, in addition to his relatives as mentioned above is not merely a formality but to enable the detained person to know the reasons for his arrest but also to provide the necessary opportunity to him through his relatives, friends or nominated persons to secure his release at the earliest possible

opportunity for actualising the fundamental right to liberty and life as guaranteed under Article 21 of the Constitution. In that contexts, it is further observed by His Lordship that the requirement of communicating the grounds of arrest in writing is not only to the arrested person, but also to the friends, relatives or such other person as may be disclosed or nominated by the arrested person, so as to make the mandate of Article 22(1) of the Constitution meaningful and effective failing which, such arrest may be rendered illegal.

[14] In **Kasireddy (supra)** maintaining the same principle, Hon'ble Supreme Court further clarified one factual aspect of **Vihaan Kumar (supra)** that said case was a case where there was an absolute failure on the part of the police to provide the grounds of arrest. In **Vihaan Kumar (supra)**, reliance was placed upon the entry in the case diary which recorded that the appellant was arrested after informing him of the grounds of arrest but, in **Kasireddy (supra)**, the grounds of arrest was supplied to the arrestee but the challenge was made that those grounds were not meaningful and were bereft of necessary essential information. In that context, Hon'ble Supreme Court in **Kasireddy (supra)** observes that it is not necessary for the authorities to furnish full details of the offence. However, the information should be sufficient to enable the arrested person to understand why he has been arrested. The grounds to be communicated to the arrested person should be somewhat similar to the charge framed by the Court for the trial of the case.

[15] At paragraph No.27, the underlying principle of communicating the grounds of arrest is also reiterated by the Hon'ble Supreme Court that on learning about the grounds for arrest, the person concerned will be in a position to make an application before the appropriate Court for bail, or to move the High Court for a writ of habeas corpus. Further, the information will enable the arrested person to prepare his defence in time for the purposes of his trial and for that reason, it has been provided by the Constitution that, the ground for the arrest must be communicated to the person arrested as soon as possible. It is also held that if a person is arrested on a warrant, the grounds for reasons for the arrest is the warrant itself and if the warrant is read over to the arrested person, it will be the sufficient compliance with the requirements, and if he is arrested without a warrant, he must be told why he has been arrested. He must also be informed of the precise acts done by him for which

he would be tried and informing him merely of the law applicable to such acts would not be enough.

[16] Later, in ***Mihir Rajesh Shah (supra)***, the Hon'ble Supreme Court has also taken note of the earlier decisions in cases of ***Pankaj Bansal v. Union of India and others; (2024) 7 SCC 576***, ***Prabir Purkayastha v. State (NCT of Delhi); (2024) 8 SCC 254*** and also the decision rendered in ***Vihaan Kumar (supra)*** and the supplementing note of His Lordship, Hon'ble Mr. Justice N. Kotiswar Singh therein. While analyzing the law on that point, Hon'ble Supreme Court at paragraph No.38 observes that the objective enshrined in Article 22(1) of the Constitution of India for furnishing grounds of arrest stems from the fundamental principle of providing opportunity to a person to allow him to defend himself from the accusations that are levelled against him leading to his arrest. The salutary purpose of informing the grounds of arrest is to enable the person to understand the basis of his arrest and engage legal counsel to challenge his arrest, remand or seek bail and/or avail of any other remedy as may be available to him/her under law.

[17] At paragraph No.41, it is also observed that the purpose of securing legal assistance before remand is not merely symbolic, but it is to ensure that the accused is afforded an effective opportunity to oppose the prayer for police custody and to place before the magistrate any circumstances that may warrant refusal or limitation of such custody. If the accused is not represented through a counsel, he/she should be made aware that he/she is entitled for legal aid. As far as possible, it shall be ensured that every accused person is represented by an advocate, if he is not able to avail such assistance, he should be given free legal aid. At paragraph No.44, it is further observed that the arrested person must be well equipped with the information not only about his arrest but the reasons and grounds thereof prior to his production before the magistrate so as to enable him to effectively defend himself and oppose the police and judicial custody and even press for bail. At paragraph No.60, taking note of some contingencies and situation regarding procedural impediment for the law enforcing agencies in complying such constitutional and statutory responsibility regarding communication of grounds of arrest to the arrestee etc., it is further observed that the constitutional safeguards, valuable as they are, cannot be interpreted in a

manner so as to allow it to metamorphose into a procedural impediment that handicaps the law enforcing agencies in due lawful discharge of their duties and therefore, a balance between the compliance of the constitutional as also the statutorily mandated safeguards on the one hand vis-a-vis the effective discharge of lawful statutory law enforcement duties and responsibilities cast upon the State agencies must be struck. Finally, Hon'ble Supreme Court held that the constitutional mandate of informing the arrestee the grounds of arrest is mandatory in all offences under all statutes including offences under IPC and it should be communicated in writing to the arrestee in the language he/she understands. It is further held that in case(s) where, the arresting officer/person is unable to communicate the grounds of arrest in writing on or soon after the arrest, it be so done orally. The grounds be communicated in writing within a reasonable time thereafter and in any case at least two hours prior to production of the arrestee for remand proceedings before the Magistrate.

[18] On perusal of all these authoritative pronouncements of Hon'ble Supreme Court, it requires no further deliberation that grounds of arrest must be communicated to the arrestee in writing and same should be communicated in the language which is understandable by him. The effective and meaningful communication of such grounds of arrest to the accused only fulfils the Constitutional requirement of Article 22(1). The very purpose of communicating the grounds of arrest to the accused person is to enable him to know for what reason he has been arrested and also to enable him to take proper defence and to seek effective legal assistance for defending him against any petition for his remand and also for his bail and also to take other recourses of law. It becomes more effective and of more aid to him when such grounds of arrest are communicated to his near relatives or friends or any person nominated by him to be informed of the fact of his arrest. As the arrestee remains behind the bar, communicating of such grounds of arrest to his relatives, friends or nominated person gives better opportunity to him to defend his case through such relatives, friends or nominated person. Basic intention behind Article 22(1) of the Constitution is to make the arrestee enable to defend him in an effective and proper manner in such remand proceeding or for other purposes related thereto. Therefore, it is required to be examined from the attending facts and circumstances of each case whether the

Constitutional requirement of Article 22(1) in respect of a particular accused person is satisfactorily met up or not.

[19] Now, coming to the facts of the case in hand, it is seen that the detailed grounds of arrest was communicated to the accused person in writing in an exhaustive manner. The arresting officer has also given a note in the said document containing grounds of arrest that he explained the grounds of arrest to the accused to his own language and the arrestee has also signed therein. It is also noted by the investigating officer in the arrest memo that the fact of arrest has also been informed to his wife namely, Susmita Das through her mobile phone bearing No.9362711549 wherein the accused has also put his signature. The accused was arrested at Tuichindrai under Teliamura P.S. whereas the residence of the accused is at P.R. Bari under South Tripura District wherein his wife is residing and the same is far away from the place of arrest. Therefore, the arresting officer had to communicate the said fact of arrest to his wife over phone. The accused was arrested on 27.02.2025 and he never raised any such plea before the learned Special Judge that grounds of arrest was not communicated to him in the language understandable by him though he was throughout represented by the Advocates since his first production before the Court. Now, raising of such issue for the first time before the High Court after such a long time, appears to be afterthought.

[20] In view of above, it is held that the prayer for bail of the accused person is devoid of any merit and accordingly, same is rejected.

[21] However, before parting with the record, this Court in terms of the decision of Hon'ble Supreme Court in **Vihaan Kumar (supra)**, it is directed to all the learned Special Judges under the Special Legislations and the learned Magistrates that whenever any accused person under arrest is produced before the Court, said Court will positively ascertain whether compliance with Article 22(1) and other mandatory safeguards have been made by arresting authority or not.

A copy of this judgement be circulated to all the learned Special Judges and the Judicial Magistrates of the State for compliance.

It also appears that the trial is running in a very slow pace in the Court of learned Special Judge, Khowai and the calendar is fixed after three months and that is also only for part examination of only one witness though the accused is in custody for such a long period. The learned Special Judge is, therefore, directed to take all endeavours to complete the trial within six months.

The prosecuting agency in addition to the summons/warrants issued by the learned Special Judge, will produce their witnesses on their own accord on each date fixed as per the calendar(s) fixed for examination of prosecution witnesses.

The bail application is accordingly disposed of.

Re-consign the Trial Court record.

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

JUDGE