

**HIGH COURT OF TRIPURA
AGARTALA**

B.A. No.138 of 2025

Bina Dhar Choudhury aged about 59 years,
Wife of Pradyut Dhar Choudhury,
resident of Usha Bajzar,
Chhinaihani Airport, Agartala, West Tripura.

---- Applicant(s)

On behalf of accused person

Shri Pradyut Dhar Choudhury,
S/o: Lt. Adhir Dhar Choudhury,
Resident of Ushabazar,
P.S. Airport, Agartala, Tripura West.

---- Accused Person(s)

Versus

The State of Tripura

Represented by the Secretary,
To the Department of Home, New Secretariat Complex,
P.S.: N.C.C., District: West Tripura.

.....Respondent(s)

For Petitioner(s)	: Mr. Ratan Datta, Adv, Mr. Ankan Tilak Paul, Adv, Ms. Saswati Nag, Adv, Mr. Aditya Baidya, Adv.
For Respondent(s)	: Mr. Sankar Lodh, Spl. P.P.
Date of Hearing	: 27.01.2026
Date of delivery of Judgment and Order	: 29.01.2026
Whether fit for Reporting	: NO

HON'BLE MR. JUSTICE BISWAJIT PALIT

Judgment & Order

This bail application under Section 439 of Cr.P.C. is
filed for granting bail to the accused-in-custody namely Sri
Pradyut Dhar Choudhury in connection with Airport P.S. case
No.37 of 2024 corresponding to S.T.(T-1) No.31 of 2025 under

Section 302, 120B and 34 of IPC and Section 27 of the Arms Act.

02. Heard Learned Counsel, Mr. Ratan Datta assisted by Learned Counsel, Mr. Ankan Tilak Paul, Ms. Saswati Nag and Mr. Aditya Baidya appearing on behalf of the accused-in-custody and also heard Learned Special P.P., Mr. S. Lodh appearing on behalf of the State-respondent.

03. Taking part in the hearing, Learned Counsel, Mr. R. Datta drawn the attention of the Court that on behalf of this accused earlier bail applications were moved to this Court which were rejected but this time the accused has come before the Court with certain new grounds which may be considered for granting bail to the accused-in-custody. It is submitted by Learned Counsel that in this case, ground of arrest was not communicated to the accused. Referring Annexure-3, column No.5 i.e. the arrest memo, Learned Counsel has drawn the attention that from the contents of the said column, it appears that no grounds of arrest was communicated to the accused at the time of arrest and also during his production before the Court. In this regard he relied upon one citation of the Hon'ble Supreme Court of India in **Mihir Rajesh Shah vs. State of Maharashtra & Anr.** reported in **(2025) SCC OnLine SC 2356**, wherein in para Nos.2 and 56, the Hon'ble Apex Court observed as under:

"2. The main issue as raised by the Appellants in these Appeals is the violation of the Appellants' right under Article 22(1) of the Constitution of India and Section 50 of the Criminal Procedure Code, 1973 ("CrPC 1973") now Section 47 of Bharatiya Nagarik Suraksha Sanhita, 2023 ("BNSS 2023") as the appellants assert that they were not informed of grounds of their arrest in writing.

56. In conclusion, it is held that:

i) The constitutional mandate of informing the arrestee the grounds of arrest is mandatory in all offences under all statutes including offences under Penal Code, 1860 (now BNS 2023);

ii) The grounds of arrest must be communicated in writing to the arrestee in the language he/she understands;

iii) In case(s) where, the arresting officer/person is unable to communicate the grounds of arrest in writing on or soon after arrest, it be so done orally. The said grounds be communicated in writing within a reasonable time and in any case at least two hours prior to production of the arrestee for remand proceedings before the magistrate.

iv) In case of non-compliance of the above, the arrest and subsequent remand would be rendered illegal and the person will be at liberty to be set free."

Referring the same, Learned Counsel submitted that since no ground of arrest was communicated to the accused-in-custody, so, he may be released on bail in any condition. In support of his contention he further referred another citation of Hon'ble Supreme Court of India in **Vihaan Kumar vs. State of Haryana & Anr.** reported in **(2025) 5 SCC 799**, wherein in para No.41, the Hon'ble Apex Court observed as under:

"41. The issue on the requirement of communication of grounds of arrest to the person arrested, as mandated under Article 22(1) of the Constitution of India, which has also been incorporated in the Prevention of Money Laundering Act, 2002 under Section 19 thereof has been succinctly reiterated in this judgment. The constitutional mandate of informing the grounds of arrest to the person arrested in writing has been explained in

Pankaj Bansal [Pankaj Bansal v. Union of India, (2024) 7 SCC 576 : (2024) 3 SCC (Cri) 450] so as to be meaningful to serve the intended purpose which has been reiterated in Prabir Purkayastha [Prabir Purkayastha v. State (NCT of Delhi), (2024) 8 SCC 254 : (2024) 3 SCC (Cri) 573] . The said constitutional mandate has been incorporated in the statute under Section 50CrPC (Section 47 of the BNSS). It may also be noted that 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 50-ACrPC. As may be noted, this is in the addition of the requirement as provided under Section 50(1)CrPC.”

Referring the same further he submitted that since the direction of the Hon'ble Apex Court has not been complied with by the arresting authority, so, the accused may be released on bail in any condition.

Learned Counsel thereafter, drawn the attention of the Court referring para No.6 of the charge-sheet wherein it was mentioned that prior to incident on and from 01.03.2024 to 30.04.2024, there were 191 numbers of phone calls in between the accused-in-custody and the principal accused Raju Barman which consumed eight hours thirty seven minutes and soon thereafter, the victim was killed/murdered. So, save and except the allegation prosecution could not project any other material before this Court showing involvement of the accused with the alleged offence. In support of his contention he relied upon one citation of the Hon'ble Supreme Court of India in **Kiriti Pal vs. State of West Bengal** reported in **(2015) 11**

SCC 178, wherein in para Nos.28 and 29, the Hon'ble Apex Court observed as under:

"Involvement of A-2, A-3 and A-4 and their conviction.

28. For conviction of appellants A-2, A-3 and A-4, the courts below relied upon two circumstances: (i) that soon before the time of the incident and after the incident all the accused were in contact with each other on the phone calls and thus had conspired in perpetrating the crime; (ii) recovery of incriminating articles from Appellants 2 and 3.

29. To arrive at a conclusion that the appellant-accused have conspired together to commit the offence, the courts below mainly relied upon the phone calls details:

29.1. Ext. 30 is the call record of Mobile No. 9232589186 of Kiriti Pal which shows that Kiriti Pal made 41 calls to A-4 Durga Sutradhar from 7-12-2008 to 15-1-2009.

29.2. Ext. 31 is the call record of Siddique Mia. Ext. 31 indicates that 144 calls were made from the mobile phone of Mustaque Mia to Siddique Mia. Some of the calls were incoming calls from the mobile of Siddique Mia to Mustaque Mia. Ext. 31 indicates that there was telephonic conversation between the accused Mustaque Mia and accused Siddique Mia.

29.3. Ext. 32 shows that Kiriti Pal made seven calls to Anjali's mobile from 11-7-2008 to 9-11-2008.

29.4. Ext. 34 shows that Saraswati made seven calls to Siddique Mia during the period from 11-11-2008 to 14-11-2008. Documentary evidence indicates that Siddique Mia made 13 calls to Saraswati during the period from 10-11-2008 to 27-11-2008.

29.5. Ext. 35 shows that Saraswati made 38 calls to Durga Sutradhar during the period from 11-11-2008 to 20-11-2008. Documentary evidence also indicates that all the accused were in contact with one another over the phone. Scrutiny of call details revealed that on 11-11-2008 Saraswati made 2 calls to Anjali. One call was at 1255 hrs and another call was at 1258 hrs and four calls to Siddique Mia, first call was at 0955 hrs and the last call was at 1720 hrs. Documentary evidence further indicates that on 11-11-2008 Siddique Mia had a telephonic conversation with Mustaque Mia around 1919 hrs and Siddique Mia had also telephonic conversation with Saraswati and the first call was at around 0955 hrs and the last call was at 2142 hrs. Saraswati had a telephonic conversation too with Durga Sutradhar on that date and there were six

incoming and outgoing calls. The first call was at around 1057 hrs and the last call was at 1757 hrs."

Referring the same Learned Counsel submitted that since prosecution in this case save and except the allegation of telephonic conversation could not adduce any other materials on record against the accused-in-custody. So, in view of the said observation of the Hon'ble Apex Court, there is no scope to detain the accused furthermore in custody. He also relied upon another citation of the High Court of Delhi in **Dalip Singh alias Langda vs. State (NCT of Delhi)** reported in **(2019) SCC OnLine Del 6494**, wherein in para No.11 (last part), it is written *"merely because the petitioner has been having telephonic conversation with the co-accused, would not be sufficient to hold that petitioner is guilty of the subject offence. There is no recovery made from the petitioner."*

Referring the case, Learned Counsel submitted that on the basis of telephonic conversation, the High Court of Delhi granted bail to the accused.

It was further submitted by Learned Counsel that in para No.4 of the bail application, it is specifically asserted by the accused-applicant that he is suffering from chronic heart disease and he has undergone heart surgery on 26.12.2024 and he requires constant medical treatment which is not possible if he remains in custody. Furthermore, the daughter of the accused-in-custody died on 27.12.2022 and his mother

also expired on 11.11.2024. So, excepting the accused-in-custody, there is no other male person in the family of the accused to look after the wife of the accused and as such for the purpose of medical treatment and since he is a senior citizen presently aged about 65 years, the accused is required to be released on bail in any condition. In support of this contention, he relied upon one citation in **Dr. P. Varavara Rao vs. National Investigation Agency & Anr.** reported in **(2022) SCC OnLine SC 1004**, wherein in para No.16, the Hon'ble Apex Court observed as under:

"16. We need not go into the rival contentions as some of the notable factual aspects which emerge from the record are:

"a. The appellant is 82 years of age.

b. He was taken in custody initially on 28.08.2018 and has actually spent 2½ years of custody, leaving aside the period for which benefit of bail was granted pursuant to the order dated 22.02.2021.

c. Though the charge-sheet has been filed, some of the accused are still not apprehended and the matter has not even been taken up for consideration whether the charges need to be framed against the accused who are presently before the Trial Court or not.

d. Various applications preferred by the accused seeking discharge are still pending consideration.

e. The medical condition of the appellant has not improved to such an extent, over a period of time, that the facility of bail which was granted earlier be withdrawn."

"11. On perusal of the record, it is prima facie seen that there are two major missing links in the case of the prosecution. There is no link established by the prosecution between the petitioner with the alleged supplier Manoj. Further the entire case of the prosecution, in so far as petitioner is concerned is circumstantial i.e. based solely on disclosure statement of a co-accused which is per se not admissible without there being any corroboration.

Prosecution has not been able to establish any connection between the subject offence and the bank accounts, where the petitioner is alleged to have been depositing money or with the holders of those accounts."

Further, he referred another citation of the Hon'ble Supreme of India in **Satyendar Kumar Jain vs. Directorate of Enforcement** reported in **2023 SCC OnLine SC 686**, wherein in para Nos.3 and 4, the Hon'ble Apex Court observed as under:

"3. After hearing learned counsel for the parties, at present there is no reason to disbelieve the Report of G.B. Pant Institute of Post Graduate Medical Education and Research. We think it appropriate that the citizen is having a right to take treatment of his choice, at his own expenses, in a private hospital.

4. Therefore, we deem it appropriate to release the petitioner on interim bail on medical grounds for a limited period of six weeks."

Referring the same, Learned Counsel submitted that since the accused is a senior citizen, so, considering his physical condition and also the fact that he requires continuous treatment, he may be released on bail in any condition.

Learned Counsel again submitted that the petition is a retired Government employee and he has been falsely implicated in this case and furthermore, in the charge-sheet it is also mentioned that co-accused Susmita Sarkar made statement before the Court but from the statement of said Susmita Sarkar, no evidence reveals against the accused-in-custody that he was directly or indirectly involved with the alleged murder of accused. So, simply on the ground that he was the president of Bharat Ratna Club the accused has been

falsely implicated in this case and as such the accused cannot be detained furthermore in custody.

It was further submitted that on the basis of statement of co-accused, there is no scope to convict a person. Learned Counsel in this regard referred the judgment of the Hon'ble Supreme Court in **Surender Kumar Khalina Vs. Intelligence Officer Directorate of Revenue Intelligence** reported in **AIR (2018) SC 3574**.

It was further submitted that some other accused persons by this time have been enlarged on bail in this case and since the accused is lodging in bail more than 1 ½ years, so, no purpose would be served by keeping the accused in J/C furthermore. So, Learned Counsel urged for releasing the accused on bail in any condition and further submitted that since charge-sheet is submitted as such there is no question of further interrogation of the accused.

It was further submitted by Learned Counsel that prosecution in this case in the charge-sheet save and except telephonic conversation in between the accused-in-custody and the present principal accused could not adduce any other materials on record to substantiate the involvement of the accused with the alleged offence and furthermore, the accused is languishing in jail almost for a period of 18 months. So, considering the long incarceration of the accused-in-custody

and also considering the fact that the accused is a senior citizen suffering from heart related issue, Learned Counsel urged for releasing the accused on bail in any condition.

04. On the other hand, Learned Special P.P., Mr. S. Lodh appearing on behalf of the State-respondent submitted that the plea of "grounds of arrest" cannot be accepted in this case. In support of his contention he submitted that when the accused was arrested and was produced before the Court, that time the ground of arrest was duly communicated to him in writing separately by the arresting authority. Even after detention till today on so many occasions, bail applications were moved and during that period no such plea was taken on behalf of the accused that the "grounds of arrest" was not communicated. It was further submitted by Learned Counsel that initially he was granted bail by the Court with certain condition with some direction, but the accused failed to obey the order of the Court. So, warrant of arrest was issued against him and on the basis of warrant of arrest, he has taken into custody later on. So, in view of the provision provided under Section 50 of Cr.P.C., even if it is assumed that the "grounds of arrest" was not communicated is not a legal ground to ensure compliance of the same by the arresting authority. In this regard, he referred the provision of Section 50 of Cr.P.C. which provides as under:

"50. 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.

[50A. Obligation of person making arrest to inform about the arrest, etc., to a nominated person.—

(1) Every police officer or other person making any arrest under this Code shall forthwith give the information regarding such arrest and place where the arrested person is being held to any of his friends, relatives or such other persons as may be disclosed or nominated by the arrested person for the purpose of giving such information.

(2) The police officer shall inform the arrested person of his rights under sub-section (1) as soon as he is brought to the police station.

(3) An entry of the fact as to who has been informed of the arrest of such person shall be made in a book to be kept in the police station in such form as may be prescribed in this behalf by the State Government.

(4) It shall be the duty of the Magistrate before whom such arrested person is produced, to satisfy himself that the requirements of sub-section (2) and sub-section (3) have been complied with in respect of such arrested person.]”

Referring the same, he submitted that the plea taken by Learned Counsel for the petitioner cannot be considered. It was further submitted that excepting the plea of “grounds of arrest”, the other grounds projected by the Learned Counsel for the petitioner accused-in-custody cannot be considered since those issues have already been dealt with by this Court in disposal of the bail applications filed by the accused-in-custody earlier, so, in absence of any new grounds the same is liable to be dismissed henceforth. In this regard, Learned Special P.P. relied upon one citation of the Hon’ble Supreme Court of India in **Lt. Col. Prasad Shrikant Purohit**

vs. State of Maharashtra reported in **(2018) 11 SCC 458**, wherein in para No.30, the Hon'ble Apex Court observed as under:

"30. Before concluding, we must note that though an accused has a right to make successive applications for grant of bail, the court entertaining such subsequent bail applications has a duty to consider the reasons and grounds on which the earlier bail applications were rejected. In such cases, the court also has a duty to record the fresh grounds which persuade it to take a view different from the one taken in the earlier applications."

Referring the same, Learned Special P.P. submitted that since no new grounds have been projected by the accused-in-custody because those points have already been dealt with by this Court in earlier occasions on the bail applications filed by the accused. So, the same cannot be re-agitated again and the same may lead to a speculation and uncertainty in the administration of justice and may lead to forum hunting. Further reference was made in another citation of the Hon'ble Supreme Court of India in **Kalyan Chandra Sarkar vs. Rajesh Ranjan alias Pappu Yadav & Anr.** reported in **(2005) 2 SCC 42**, wherein in para No.19, the Hon'ble Apex Court observed as under:

"19. The principles of res judicata and such analogous principles although are not applicable in a criminal proceeding, still the courts are bound by the doctrine of judicial discipline having regard to the hierarchical system prevailing in our country. The findings of a higher court or a coordinate Bench must receive serious consideration at the hands of the court entertaining a bail application at a later stage when the same had been rejected earlier. In such an event, the courts must give

due weight to the grounds which weighed with the former or higher court in rejecting the bail application. Ordinarily, the issues which had been canvassed earlier would not be permitted to be reagitated on the same grounds, as the same would lead to a speculation and uncertainty in the administration of justice and may lead to forum hunting."

Referring the same, Learned Counsel submitted that although there is no legal bar to file successive applications for granting of bail but the Court at the time of considering the fresh bail application must consider the grounds for which the earlier petitions were rejected and to arrive at a view different from the other decisions taken in the earlier applications.

Finally, Learned Special P.P. submitted that since the plea of "grounds of arrest" is not tenable at this stage, the grounds taken by the accused are not new, rather those have been considered in earlier occasions by this Court in dealing with the bail applications filed by the accused-in-custody which remain unchallenged and until and unless those orders were challenged, there is no fresh grounds in the hands of accused-in-custody for consideration.

It was further submitted that in para No.8 of the charge-sheet, it was specifically mentioned that regarding the plan of the deceased for having physical with one of the co-accused, Susmita Sarkar, the matter was conveyed to the accused-in-custody being the president of the club. So, the submission of Learned Counsel for the accused that excepting the allegation of telephonic conversation, no other evidence is there, is not correct. So, in summing up, Learned Special P.P.

urged for dismissal of the bail application. It was further submitted that trial is not yet been commenced, so, at this stage, till recording of evidence, it cannot be said that the accused is innocent and falsely implicated in this case.

05. Heard both the sides at length and also perused the relevant prosecution papers. It is admitted that the accused-in-custody is lodging in jail more than 1 ½ years. It is also the admitted position that based on the FIR laid by S.I. Srikanta Guha of Airport P.S. to O/C., Airport P.S. on 30.04.2024, this case was registered. The accused is FIR named and in the initial FIR, it was mentioned that this present accused and others made conspiracy to kill the deceased and ultimately the deceased was murdered, although on the following day of the alleged occurrence a detailed FIR was laid by the wife of the deceased which was tagged in the C/D after making necessary entry in the G/D and in the said FIR also there was direct allegation against this present accused. It is the admitted position that earlier on so many occasions, this present accused filed applications for bail which were rejected. From the relevant prosecution papers, it appears that when the accused was arrested, he was duly intimated the "grounds of arrest" in writing. He was all along represented by his engaged counsel. At one point of time, he was granted bail on the ground of sudden death of his mother but he did not comply with the condition of the bail, so, warrant of arrest was issued

against him and he was re-arrested again by police and produced before the Court. So, Section 50 of Cr.P.C. would no longer attract the case of the present applicant at this stage.

06. So, on the point of "grounds of arrest", there is no scope to consider bail of the accused. In respect of other points, at the time of hearing of B.A. bearing No.45 of 2025 and B.A. No.09 of 2025 and the B.A.No.103 of 2025 all the points raised by Learned Counsel for the accused were discussed in detail and after considering all these aspects, the bail applications were rejected. So, at this stage, no new grounds have been projected before this Court to consider the bail application of the accused. Furthermore, trial of this case has not yet been commenced and from the relevant prosecution papers at this stage, the prima facie involvement of the accused cannot be ruled out.

07. In the result, the bail application filed stands rejected. The accused is to remain in J/C as before.

Send down the record to the Learned Trial Court along with a copy of this order.

Return back the Case Diary to I.O. through Learned Special P.P. along with a copy of this order.

JUDGE

PURNITA DEB

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