

HIGH COURT OF TRIPURA

AGARTALA

AB 01 of 2026

Sri Apu Ranjan Das, son of Sri Subodh Chandra Das,
Aged about 46 years, resident of Baramura, Ward No.1,
P.S. Kalamchaura, District-Sepahijala, Tripura.

....Applicant/petitioner.

Versus

The State of Tripura, represented by the Secretary,
Department of Home, Agartala, West Tripura.

....Respondent.

BEFORE
HON'BLE MR. JUSTICE S. DATTA PURKAYASTHA

For the Applicant/petitioner(s) : Mr. P.K. Biswas, Sr.Advocate.
Mr. M.K. Biswas, Advocate.
Mr. Pujan Biswas, Advocate.

For the Respondent(s) : Mr. Rajib Saha, Addl. P.P.

Date of hearing : 16.01.2026

Date of delivery of
Judgment & Order : **04.02.2026**

Whether fit for reporting :

YES	NO
	✓

JUDGMENT & ORDER

This application under Section 438 of the Code of Criminal Procedure [for short, 'CrPC'] is filed by the applicant-accused, namely, Apu Ranjan Das in connection with Mungiakami P.S. Case No.15 of 2021, registered under Sections 21(c), 29/25 of NDPS Act.

2. Facts of the prosecution case are that the informant, S.I. Ranjit Das, lodged an ejahar on 30.05.2021 alleging that, on that day, when he along with his other police personnel were on vehicle checking duty at 37- Mile area, detained one 10-wheeler dumper driven by accused one Manik Sarkar and recovered 14,400 Nos. of bottles of Phensedyl cough syrup therefrom. Just prior to the recovery of said item from the

said dumper, some of the police personnel were also checking the vehicular documents of one Mahindra Marazzo vehicle bearing registration No. TR07-C-0299 which was followed by the said dumper. At that time, when such phensedyl bottles were detected in the dumper, the driver and another person of said Marazzo vehicle left hurriedly from that place with their vehicle. Thereafter, the driver of the dumper was arrested accordingly.

3. After registration of the case and on completion of investigation, once the investigating officer submitted a part charge-sheet, that was not accepted by learned Special Judge, Khowai, and thereafter, on completion of the total investigation, police submitted charge-sheet on 28.03.2024 against the present accused-petitioner and four other co-accused persons including the said driver, Manik Sarkar.

4. Accused Debabrata Dey, during investigation, was found to be driver of the said Marazzo vehicle, who left his driving license on the spot and the same was recovered and seized by the police. In the investigation, it also revealed that another accused, Partha Dey, was in close contact with said Debabrata Dey during transportation of said narcotic drugs and he was also responsible for commission of the alleged crime.

5. Police, during investigation took assistance of CDR analysis and tower location of the phone number of accused Partha Dey, Debabrata Dey and said Manik Sarkar. According to the investigating officer, accused Debabrata Dey, another co-accused, Tanmay Bhattacharjee and present accused-petitioner, Apu Ranjan Das were the owners of said contraband items. It is alleged that on the previous date of alleged incident, as per CDR analysis, said accused Tanmay Bhattacharjee along with co-accused Debabrata Dey proceeded towards Panisagar to escort phensedyl carrying vehicle.

6. Both the accused, Manik Sarkar and Partha Dey, got the default bail from the Court of learned Special Judge. The Accused Tanmay Bhattacharjee surrendered before the Court of learned Special Judge and ultimately, after some days, he was released on interim bail on

the ground of his acute illness. Learned Special Judge thereafter continuously extended his interim bail for a considerable period until the case was transferred to the Court of learned Additional Special Judge. Learned Addl. Special Judge, thereafter, granted regular bail to him. Neither the learned Special Judge nor learned Addl. Special Judge, while allowing him to remain either on interim bail for a long period or on regular bail thereafter discussed about the rigor of Section 37 of the NDPS Act.

7. Warrant of arrest was issued against accused Debabrata Dey by learned Special Judge at the instance of investigating officer and thereafter writ of proclamation and attachment were also issued.

8. He then filed an application for pre-arrest bail before the High Court being registered as AB No.45 of 2025 which was rejected by a Coordinate Bench of this Court on 23.06.2025. Now, the present petitioner has filed the bail application for his pre-arrest bail as indicated above.

9. Learned senior counsel, Mr. P.K.Biswas for the petitioner contends that three of the co-accused persons have already been released on bail despite having direct involvement in the matter, unlike the present petitioner and according to the learned senior counsel, nothing has been revealed in the evidence that he was involved in the alleged crime. Even the CDR of the relevant phone Nos. collected and analysed by the investigating officer also did not involve the present petitioner therein and the only incriminating material against him is that he was an ill-reputed man in his locality.

10. Learned senior counsel also submits that even the co-accused persons during their detention period did not divulge anything against him. Learned senior counsel further submits that no summons was also ever issued to the present accused-petitioner.

11. Finally, learned senior counsel, Mr. Biswas relies on the decision of Hon'ble Supreme Court in case of **Narcotic Control Bureau vs. Mohit Aggarwal, (2022) 18 SCC 374**, wherein, Hon'ble Supreme Court observed that– the conditions imposed in subsection (1) of Section 37 is that the Public Prosecutor ought to be given opportunity to oppose

the bail application and secondly, that if such application is opposed, then the Court must be satisfied that there are reasonable grounds for believing that the person accused is not guilty of such an offence and additionally, the Court must be satisfied that the accused person is unlikely to commit any offence while on bail. Regarding the words 'reasonable grounds', it was observed by the Hon'ble Supreme Court that *such reasonable ground would mean credible and plausible grounds for the Court to believe that the accused person is not guilty of the alleged offence and for arriving at any such conclusion that facts and circumstances must exist in a case that can persuade the Court to believe that the accused person would not have committed such an offence. Further consideration of the Court is that the accused person is unlikely to commit any offence while on bail*. It was also clarified that at the stage of examination of an application for bail in the context of Section 37 of the Act, the Court is not required to record a finding that the accused person is not guilty. The Court is also not expected to weigh the evidence for arriving at a finding as to whether the accused has committed an offence under the NDPS Act or not. The entire exercise that the Court is expected to undertake at this stage for the limited purpose of releasing the accused on bail, and therefore, the focus is on the availability of reasonable grounds for believing that the accused is not guilty of the offences that he has been charged with and that he is unlikely to commit an offence under the Act while on bail.

12. Learned senior counsel, Mr. Biswas also relies on another decision of Hon'ble Supreme Court in the case of ***Dr. Subhash Kashinath Mahajan vs. The State of Maharashtra & Anr., (2018) 6 SCC 454***, wherein, it was observed that *there is no absolute bar against ground of anticipatory bail in cases under Scheduled Castes and Scheduled Tribes (Prevention and Atrocities) Act, 1989 if no prima facie case is made out and where on judicial scrutiny the complaint is found to be prima facie mala fide*.

13. Learned Addl. P.P., Mr. R. Saha opposing the bail prayer argues that the case was registered in the year 2021 and charge-sheet was submitted in the year 2024 showing the present petitioner as absconder and the notice under Section 67 NDPS Act was already issued

to him but it was refused by his family members and he also never appeared before the I.O.. Learned Addl. P.P. further submits that warrant of arrest and then writ of proclamation and attachment were also issued by the learned Courts below against the present accused long ago, but despite the same, he did not respond to it. Therefore, the present petition for pre-arrest bail is not maintainable. Learned Addl. P.P. also submits that there are prima facie materials against the present accused-petitioner to be involved in trafficking of contraband articles of commercial quantity and he is a habitual offender dealing with narcotic substances illegally and one case bearing No. NCB, Gauhati Crime No.7/2022, under Sections 8(c)/21(c) and Section 29 is also pending against him at Gauhati, Assam.

14. In case of ***Lavesh vs. State (NCT of Delhi), 2012 8 SCC 730***, as relied on by learned Addl. P.P., the Hon'ble Supreme Court at paragraph 12 observed that the appellant was not available for interrogation and investigation and was declared as "absconder". In that context, Hon'ble Supreme Court observed that normally, when the accused is "absconding" and declared as a "proclaimed offender", there is no question of granting anticipatory bail. It was also again reiterated in the same paragraph by Hon'ble Apex Court that when a person against whom a warrant had been issued and is absconding or concealing himself in order to avoid execution of warrant and declared as a proclaimed offender in terms of Section 82 of the Code he is not entitled to the relief of anticipatory bail.

15. Learned Addl. P.P. also relies on another decision in case of ***Srikant Upadhyay vs. State of Bihar & Ors., (2024) 12 SCC 382***, wherein, it was observed that non-attendance in obedience to an order from public servant or in obedience to proclamation issued under Section 82 of CrPC can make the person liable even to face further proceeding under Section 174/174-A of IPC. At paragraph No.25, it was observed that the meaning of term 'absconded' in its etymological and in original sense is that the accused is hiding himself. What is required as proof for absconding is the evidence to the effect that a person concerned was knowing that he was wanted and also about pendency of warrant of arrest.

16. Learned Addl. P.P. also relies on another decision in case of ***State by the Inspector of Police vs. B. Ramu, 2024 SCC OnLine SC 4073***, and in relevant paragraph No.9, it was held that *in the event, the Public Prosecutor opposed the prayer of bail either regular or anticipatory, as the case may be, the Court would have to record a satisfaction that there are grounds for believing that the accused is not guilty of the offence alleged and that he is not likely to commit an offence when on bail.* At paragraphs No. 11 & 12, it was further observed that *in case of recovery of huge quantity of narcotic substance, the Courts should be slow in granting even regular bail to the accused and what to talk of anticipatory bail and more so when the accused is having criminal antecedents and in a case involving recovery of commercial quantity of narcotic drug or psychotropic substance, the Court would have to mandatorily record the satisfaction in terms of the rider contained in Section 37 of the NDPS Act.*

17. Learned Addl. P.P. also submits that the petition of pre-arrest bail of similarly situated co-accused, namely, Debabrata Dey was already rejected by the High Court, and therefore, there is no scope to grant pre-arrest bail to the present accused-petitioner.

18. Finally, learned Addl. P.P. relies on another decision of a Co-ordinate Bench of this Court in case of ***Sahajan Islam vs. State of Tripura, AB 79 of 2025***, wherein, this Court considering the materials on record and also considering the fact that warrant and proclamation were issued against the accused, declined to grant pre-arrest bail to him.

19. Mr. Saha, learned Addl. P.P. submits that after the said order, said Sahajahan Islam preferred another petition before the Hon'ble Supreme Court which was ultimately withdrawn by him. In reply to the submission of learned Addl.P.P., learned senior counsel, Mr. Biswas further refers to one decision of Hon'ble Supreme Court in case of ***Asha Dubey vs. Madhya Pradesh, Criminal Appeal No. 4564 of 2024***, decided on 12th November, 2024, wherein Hon'ble Supreme Court observed that *in the event of declaration under Section 82 of CrPC, it is not as if in all cases that there will be a total embargo on consideration of the application for the grant of anticipatory bail.*

20. The Court has taken into consideration the submissions of learned counsel both sides and has also gone through the case record.

21. It is found from the case record that the materials collected against the accused-petitioner are comparatively of lesser gravity than those of the other co-accused persons. Basically, the material against him is his extra-judicial confession. From the charge-sheet, it appears that the witnesses, namely Ratan Das and Rabindra Sarkar, stated that the petitioner had told them that he was engaged in trafficking of phensedyl and other narcotic items, and the petitioner also informed them that in the month of May, 2021, a huge quantity of phensedyl belonging to him and his business partners were seized by the police.

22. In the charge-sheet, it is further reflected by the investigating officer that on case bearing NCB, Gauhati Crime No. 7/2022 is pending against the present accused-petitioner, registered under Sections 8(c)/21(c)/ 29 of NDPS Act, wherein 29,900 bottles of Eskuf cough syrup were recovered by police. Notice under Section 67 of NDPS Act was also issued against him, but he did not appear, and even, his family members refused to receive said notice. Three times such notices were sent to him and subsequently, a non-bailable warrant of arrest was also issued against him on 23.03.2023. Thereafter, order of proclamation and attachment was also issued against him on 07.11.2024 by the learned Additional Special Judge.

23. Therefore, even if the materials placed against him during investigation are considered as comparatively weak than those against the other co-accused, in that case also the requirement of second rider of Section 37 of NDPS Act that "*he is not likely to commit any offence while on bail*" cannot be avoided in his case. Pendency of another such case under NDPS Act excludes the scope of non-application of said second rider in his case.

24. In **B. Ramu** (supra), it is categorically observed by the Apex Court that in case of recovery of huge quantity of narcotic substance, the Courts should be slow in granting even regular bail to the accused and

question of anticipatory bail does not arise where the accused is alleged to have criminal antecedents.

25. As per **Lavesh** (supra) and **Srikant Upadhyay** (supra), non-attendance in obedience to an order from public servant or in obedience to a proclamation issued under Section 82 of CrPC normally where a person is absconding and is declared as proclaimed offender, anticipatory bail should not be granted. In the case in hand, a warrant of arrest and thereafter a writ of proclamation and attachment were issued by the learned Special Judge and remained pending for more than one year. Though, even if, it is presumed that the principle of refusing pre-arrest bail on the ground of issuance of warrant and writ of proclamation is not applied universally in all cases, still the conduct of the accused-petitioner in the instant case does not entitle him to be favoured with the blanket liberty of pre-arrest bail.

26. For the above said reasons, as discussed, the pre-arrest bail application is rejected.

27. Interim protection given by this Court to the present accused-petitioner, Apu Ranjan Das, vide order dated 16.01.2026, stands vacated.

28. Accordingly, the anticipatory bail application stands disposed of.

29. Return the Trial Court records along with a copy of this order. Also return the Case Diary to learned Addl. P.P.

JUDGE