

**HIGH COURT OF TRIPURA
AGARTALA**

BA No.12 of 2026

Smt. Archana Das Sarkar, W/o- Nikhil Sarkar, resident of Barajush,
Paschim Bamutia, P.S.: Lefunga, Dist- West Tripura,PIN-799211.

....Applicant(s)

on behalf of

Nikhil Sarkar S/O: Lt. Binanda Sarkar (Aged about 54 years),
resident of Barajush, Paschim Bamutia, P.S: Lefunga, Dist-West
Tripura PIN-799211.

.....Accused Person(s)

Versus

The State of Tripura (represented by the Secretary, Home
Department), Government of Tripura, Agartala.

....Respondent(s)

For Applicant(s) :Mr. Janardhan Bhattacharjee, Advocate.

For Respondent(s) :Mr. Raju Datta,PP.

Date of hearing and :**19.01.2026**
Delivery of Judgment/
Order

Whether fit for reporting :

Yes	No
✓	

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HON'BLE MR. JUSTICE S. DATTA PURKAYASTHA

Judgment and Order(Oral)

Heard Ld. Counsel of both sides.

[2] The applicant Smt. Archana Sarkar on behalf of accused
Shri Nikhil Sarkar has submitted the application under Section 483 of
Bharatiya Nagarik Suraksha Sanhita (for short-'BNSS'), 2023 seeking
bail of accused Nikhil Sarkar in connection with Airport P.S. case No.
2025/ARP/57, later on re-registered as Special (NDPS)168 of 2025
under Sections 22(b), 25, 29 of NDPS Act, pending in the Court of Ld.
Special Judge(NDPS), Court No.1, West Tripura, Agartala.

[3] The FIR was lodged by one Sub Inspector of Police namely, Shri Sukanta Guha of Airport P.S. on 15.09.2025 that based on certain secret information, he along with other police officials raided the dwelling house of co-accused Samarjit Biswas in presence of SDPO, NCC, after observing all other legal formalities and ultimately, during search of the room, 28 gms of suspected heroin was recovered in a blue colored plastic packet and also, further 28gms of such heroin was recovered from the pant of accused Nikhil Sarkar. The SFSL report confirmed that the seized items were positive for 6-monoacetyl morphine, acetyl codeine and other non identifiable insoluble substances i.e. compounds of narcotic drugs. Ld. Counsel of both sides contends that the quantity of alleged heroin falls in the intermediate quantity.

[4] Police proceeded with the investigation and ultimately laid the charge sheet on 12.11.2025 against both the accused persons namely Nikhil Sarkar and Samarjit Biswas under Sections 22(b)/29 of NDPS Act. On the following day, the Investigating Officer also submitted a petition for custody-trial of both the accused persons on certain grounds like, if they are released on bail, they may influence the witnesses and a wrong message will go to the society on their release on bail and that day by day, crimes under NDPS Act are increasing etc. It is also stated by the I.O. that there is possibility to repeat the same offence by the accused persons, if they are released on bail.

[5] Ld. Counsel, Mr. Janardhan Bhattacharjee submits that both the accused persons were arrested on 15.09.2025 and since then, they are in custody i.e. for around 120 days.

[6] Mr. Bhattacharjee also submits that though such petition for custody trial was filed by the I.O., but, his client has no information of the same and copy of the said petition was also not served upon the accused.

[7] Ld. Counsel, Mr. Bhattacharjee, therefore, earnestly prays for bail on the ground that the quantity of seized item was of intermediate quantity and for much more than 60 days, the accused is in custody.

[8] Ld. PP, Mr. Raju Datta, however, seriously opposes the prayer and submits that the application for custody trial is pending before the Ld. Special Judge, and therefore, if bail is granted to the accused, same will ultimately frustrate the petition submitted by the Investigating Officer and moreover, in case of any interim bail also there is likelihood that the Court below will be influenced by the order of this Court and will decide the petition for custody trial in a negative way.

[9] Ld. PP also submits that necessary direction may be issued to all the Special Judges as well as to Public Prosecutors to mention and dispose of petition for custody trial whenever same is filed by any I.O., within a very short period and this way the matter may be streamlined.

Considered the submissions.

[10] It is not disputed from the bar that the accused persons were allegedly found to have intermediate quantity of contraband item in their possession. There is also no dispute that for more than 100 days, the present accused is in custody. Charge sheet is already laid by the I.O.

[11] Order dated 11.12.2025 passed by Ld. Special Judge shows that said Ld. Court has mentioned about the fact of submission of charge sheet by I.O. as well as such petition for custody trial of the accused persons but did not dispose it, rather on the ground that the prayer for custody trial was filed by the I.O., bail of the accused person was rejected and he was remanded in the custody. Charge was also framed on that date fixing the calendar for recording of evidences of the prosecution side.

[12] The procedure as adopted by the Ld. Special Judge is not acceptable in as much as when a petition is filed by the I.O., it is incumbent for the Ld. Prosecutor to mention the same before the Court and to make necessary submission in support of the same immediately after the same is submitted by the I.O. Simultaneously, it is also the duty of the Court to dispose of said petition with a reasoned order after hearing both the sides. Pendency of a petition for custody

trial or filing of such petition by the I.O. cannot justify remand of a person date after date without disposing the said petition.

[13] In view of the above said facts and circumstances, as discussed above, the bail application is disposed of by granting an interim bail to the accused Nikhil Sarkar. He shall be released on bail for an interim period till disposal of the said petition for custody trial by Ld. Special Judge(NDPS) on furnishing a bond of Rs.1,00,000/- (Rupees One lakh)only with one surety of like amount to the satisfaction of Ld. Special Judge(NDPS), Court No.1, West Tripura, Agartala on conditions that:

i) he will not leave the jurisdiction of the Ld. Special Judge(NDPS) without his prior permission during the period of interim bail;

ii) he will not try to influence any of the witnesses of the case meanwhile; and

iii) he will appear before the Court of Ld. Special Judge as and when required.

[14] When released on bail, Ld. Special Judge will intimate the accused about the next date of his appearance. It is also clarified that Ld. Special Judge will not be influenced by the observations of this Court made hereinabove regarding the facts of the case, while dealing with the petition for custody trial.

[15] It is also further directed that, henceforth, in all cases where such petition of custody trial is filed by the I.O., in any case, the Prosecutor will invariably bring it to the notice of the concerned Court immediately, without any unreasonable delay and the Court, in turn, will dispose of the petition expeditiously and preferably within 7 days in accordance with law.

[16] Send a copy of this order to the Ld. Special Judge, West Tripura, Agartala.

Return the LC Record and the CD with a copy of this order.

[17] A copy of this order be circulated to all the criminal Courts functioning in District Judiciary in Tripura for compliance.

JUDGE

Saikat Sarma

