

HIGH COURT OF TRIPURA

AGARTALA

BA 88 of 2025

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

....Applicant/petitioner.

Versus

1. Ibrahim Miah @ Khalil Miah,
S/o Taher Miah, resident of Mohonbhog,
Ward No.4, P.O & P.S. Melaghar,
District-Sepahijala, Tripura.

2. Saiful Alam @ Rumu,
S/o Abdul Rahaman, resident of Anandapur,
Ward No.2, P.O. Kamalnagar, P.S. Sonamura,
District-Sepahijala, Tripura.

....Respondents.

**BEFORE
HON'BLE MR. JUSTICE S. DATTA PURKAYASTHA**

For the Applicant/petitioner(s) : Mr. Raju Datta, P.P.

For the Respondent(s) : Mr. Bhaskar Deb, Advocate.
Mr. Victor Ghosh, Advocate.
Mr. Ramprasad Gope, Advocate.

Date of hearing : 28.01.2026

Date of delivery of
Judgment & Order : **19.03.2026**

Whether fit for reporting :

YES	NO
	✓

JUDGMENT & ORDER

By this petition, prayer has been made for cancellation of bail granted to the accused-respondents [here-in-after referred to as the respondents] by the learned Special Judge, Sepahijala, Sonamura in Case No. Special (NDPS) 41 of 2025 whereby the learned Special Judge allowed both the respondents to go on regular bail on the ground that grounds of arrest were not communicated to the them in writing.

2. The case is concerning commercial quantity of contraband ganja. Respondent, Ibrahim Miah was arrested on 03.02.2025 and the respondent, Saiful Alam was arrested on 22.06.2025 in connection with the said case. The allegation in the FIR was of recovery of 132 Kg. of suspected ganja from the house of Saiful Alam where the respondent Ibrahim Miah was found present at the time of raid and both were engaged in said drug trafficking.

3. After investigation, police also laid charge sheet against them under Sections 20(b)(ii)(C)/25/29 of the NDPS Act on 30.06.2025.

4. Learned P.P., Mr. Raju Datta for the petitioner submits that the contraband items were recovered from the house of Saiful Alam in presence of co-accused, Ibrahim Miah and the seizure list was also supplied to Ibrahim Miah. Therefore, there was no demonstrable prejudice caused to the respondents despite the fact that grounds of arrest were not communicated to them. Thus, according to the learned P.P., the learned Special Judge has misconceived and misapplied the law by granting bail to the respondents.

5. In support of his contention, he relies on Paragraph Nos. **20.1.5** and **20.1.7** of the decision of the Hon'ble Supreme Court in the case of ***State of Karnataka vs. Sri Darshan Etc., 2025 SCC OnLine SC 1702*** and the relevant paragraphs are as follows:-

“20.1.5. While Section 50 Cr.P.C is mandatory, the consistent judicial approach has been to adopt a prejudice-oriented test when examining alleged procedural lapses. The mere absence of written grounds does not ipso facto render the arrest illegal, unless it results in demonstrable prejudice or denial of a fair opportunity to defend.”

“20.1.7. In the present case, the arrest memos and remand records clearly reflect that the respondents were aware of the reasons for their arrest. They were legally represented from the outset and applied for bail shortly after arrest, evidencing an immediate and informed understanding of the accusations. No material has been placed on record to establish that any prejudice was caused due to the alleged procedural lapse. In the absence of demonstrable prejudice, such as irregularity is, at best, a curable defect and cannot, by itself, warrant release on bail. As reiterated above, the High Court treated it as a determinative factor while overlooking the gravity of the charge under Section 302 IPC and the existence of a prima facie case. Its reliance on Pankaj Bansal and Prabir Purkayastha is misplaced, as those

decisions turned on materially different facts and statutory contexts. The approach adopted here is inconsistent with the settled principle that procedural lapses in furnishing grounds of arrest, absent prejudice, do not ipso facto render custody illegal or entitle the accused to bail.”

6. Learned P.P. also relies on a decision of a Division Bench of this Court in the case of ***Sima Aktar on behalf of Ikbal Hossain vs. State of Tripura & Anr., WP(Crl.) 6 of 2025***, decided on 20.08.2025 wherein relying on the decision of the Hon’ble Supreme Court in the case of ***Kasireddy Upender Reddy vs. State of Andhra Pradesh & Ors., 2025 SCC OnLine SC 1228***, observed that while the Constitution requires communication of the grounds of arrest, it was not necessary for the authorities to furnish full details of the offence at the stage of arrest and what was required was sufficient information to enable the arrested person to understand as to why he was taken into custody, akin in nature to a charge framed at the trial though not containing the entire evidentiary record. In the given fact of that case, it was observed by the Division Bench that the accused was adequately informed of the grounds of arrest i.e. possession of contraband substance and the grounds of arrest were sufficiently conveyed to the accused. Additionally, it was also noted by the Court that the recovery of contraband dry ganja from the house of the accused in his presence itself constituted a clear and tangible ground of his arrest.

7. Learned P.P. also relies on another decision of Himachal Pradesh High Court in the case of ***Kabir Khan vs. State of Himachal Pradesh & Anr., CWP No.12201 of 2025***, decided analogously with some other cases, wherein it was observed that the law laid down in ***Mihir Rajesh Shah vs. State of Maharashtra & Anr., (2026) 1 SCC 500*** was prospective in nature.

8. Learned counsel, Mr. Bhaskar Deb for the respondents submits that the parameter for cancellation of bail and the granting of bail are quite different and once the bail is granted, only on certain grounds, the bail can be cancelled. Learned counsel also relies on a decision of the Hon’ble Supreme Court in ***Mihir Rajesh*** (supra), more particularly, Paragraph No.62 of the same, which is extracted here-under:

“62. We thus hold, that, in cases where the police are already in possession of documentary material furnishing a cogent basis for the arrest, the written grounds of arrest must be furnished to the arrestee on his arrest. However, in exceptional circumstances such as offences against body or property committed in flagrante delicto, where informing the grounds of arrest in writing on arrest is rendered impractical, it shall be sufficient for the police officer or other person making the arrest to orally convey the same to the person at the time of arrest. Later, a written copy of grounds of arrest must be supplied to the arrested person within a reasonable time and in no event later than two hours prior to production of the arrestee before the magistrate for remand proceedings. The remand papers shall contain the grounds of arrest and in case there is delay in supply thereof, a note indicating a cause for it be included for the information of the magistrate.”

9. Learned counsel, Mr. Deb also relies on another decision of this Court in the case of **Smt. Anita Nama vs. The State of Tripura & Anr., WP(Crl.) 04 of 2025**, decided on 08.07.2025 wherein the Court after summarizing all the previous decisions of the Hon'ble Supreme Court rendered in **Pankaj Bansal vs. Union of India, (2024) 7 SCC 576; Ram Kishore Arora vs. Directorate of Enforcement, (2024) 7 SCC 599; Prabir Pukayastha vs. State (NCT of Delhi), (2024) 8 SCC 254; Vihaan Kumar vs. State of Haryana & Anr., 2025 SCC OnLine SC 269; Kasireddy Upendar Reddy (supra) and Ashish Kakkar vs. Union Territory of Chandigarh [Criminal Appeal No.1518 of 2025**, decided on 25.03.2025], observed that grounds of arrest should be communicated to the arrested person in writing and though in every case, it may not be practicable to convey the grounds of arrest in writing but if the arrested person alleges non-compliance with the requirements of Article 22(1), the burden will always be on the Investigating Officer/Agency to prove compliance with requirement of Article 22(1) and such arresting authority shall have to show that grounds of arrest containing basic facts constituting such grounds of arrest were communicated to the arrested person effectively in the language which he understands and method of communication was such that constitutional object was safeguarded.

10. After the said order was passed in the case of **Anita Nama (supra)**, Hon'ble Supreme Court passed another judgment in **Ahamed Mansoor & Ors. vs. State Rep. By, Assistant Commissioner of Police**

& Anr., 2025 SCC OnLine SC 2650, wherein again Hon'ble Apex Court reiterated the principles laid down in **Pankaj Bansal** (supra), **Prabir Purkayastha** (supra) and **Vihaan Kumar** (supra). In the said case, it was also observed that in the case of **State of Karnataka vs. Sri Darshan** (supra), the facts governing were quite different. It was a case dealing with the cancellation of bail where the charge sheet had been filed and the grounds of detention were served immediately. Hon'ble Supreme Court also referred to the decision of **Kasireddy Upender Reddy** (supra) in that case.

11. Thereafter, again in **Mihir Rajesh Shah** (supra), Hon'ble Supreme Court reiterated further the principle that the grounds of arrest must be communicated in writing to the arrestee in the language he/she understands and in case where the arresting officer is unable to communicate the grounds of arrest in writing on or soon after arrest, it be so done orally. The said grounds should then be communicated in writing within a reasonable time and in any case at least two hours prior to the production of the arrestee for remand proceedings before the Magistrate and in case of non-compliance of the same, the arrest and the subsequent remand would be rendered illegal and the person would be at liberty to be set free.

12. In the above said several decisions, Hon'ble Supreme Court has been repeatedly held that the grounds of arrest should be communicated in writing and such information of grounds of arrest should be provided to the accused person in such a manner that sufficient knowledge of the basic facts constituting the grounds of arrest are imparted and communicated to the accused person effectively in the language which he/she understands. In the present case in hand, no material could be placed to satisfy this Court that the grounds of arrest were effectively informed to the present respondents. The present respondents were arrested after the decisions of **Pankaj Bansal** (supra), **Prabir Purkayastha** (supra), **Vihaan Kumar** (supra) and **Kasireddy Upender Reddy** (supra) were rendered by the Apex Court.

Therefore, this Court finds no infirmity in the order passed by the learned Special Judge.

Accordingly, the prayer for cancellation of the bail is rejected.

Return the C.D. and Trial Court record along with a copy of this order.

JUDGE

