



IN THE HIGH COURT OF TRIPURA
A G A R T A L A

B.A. No.120 of 2026

Sri Imran Miah,
son of Sri Malik Miah, Vill- Barband, Tilagaon, P.O.
Tripura Tila Bazar, District- Unakoti Tripura, 799281

..... **Petitioner(s)**

On behalf of accused:

Sri Malik Miah,
son of Dunai Miah, Vill- Barband, Tilagaon, P.O. Tripura
Tila Bazar, District- Unakoti Tripura, 799281

- V e r s u s -

The State of Tripura

..... **Respondent(s)**

For the Petitioner (s)	: Mr. H.K. Bhowmik, Advocate
For the Respondent(s)	: Mr. R. Datta, P.P.

Date of hearing & delivery of order : **01.07.2026**

Whether fit for reporting	:	YES	NO
			✓

HON'BLE MR. JUSTICE S. DATTA PURKAYASTHA

ORDER

This application is filed praying for bail of the accused person, namely, Malik Miah under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, (in short, BNSS) 2023 in connection with Kailashahar P.S. case No.46 of 2025 registered under Sections 21(c)/25/27-A/29 of the NDPS Act, 1985, and renumbered as Special (NDPS) 05 of 2026 pending in the Court of learned Special Judge, Unakoti Tripura, Kailashahar.

[2] The accused was arrested on 28.09.2025 and since then he is custody. Charge in this case has been framed against the accused person under Sections 21(c)/25/27-A/29 of the NDPS Act.

[3] Earlier a bail application was filed on behalf of the present accused person bearing No.27 of 2026 which was withdrawn later on.

[4] Mr. H.K. Bhowmik, learned counsel appearing for the accused petitioner submits that for about 300 days, the accused is in custody and the informant and 2[two] independent witnesses regarding seizure of the contraband items are already examined. Learned counsel also submits that the arresting officer has been examined in this case as PW-3, who in his cross-examination has categorically stated that the grounds of arrest was communicated to the accused in English language and that when he enquired from the accused persons and the witnesses, they stated that they did not know the English language. According to learned counsel, the grounds of arrest, therefore, was not communicated effectively to the accused person in the language he understands. Therefore, his arrest has become illegal and bail may be granted to him. Leaned counsel further submits that the signature of the accused obtained in the pre-search memo and in the memorandum of ground of arrest do not match with each other and in this regard, Ld. Counsel tries to indicate some dissimilarities in both the signatures.

[5] Mr. R. Datta, learned P.P., on the other hand, has strongly opposed the bail prayer submitting that the present case is relating to commercial quantity of contraband items and more so, the plea of non-furnishing of grounds of arrest in effective manner was not raised by the accused person in his previous bail application filed before this Court. Learned P.P. also submits that since his arrest the accused never raised such question that he does not know English language or that the ground of arrest was not properly communicated to him and now after so many days, just because of one witness stated something, it cannot be said that the grounds of arrest was

not communicated to him in the language he understands. It is also submitted by him that in the present bail application the accused has not disclosed as to what is his academic qualification, and prima-facie, it appears that he knows English as he had signed on the memorandum of ground of arrest in English language.

[6] This Court has considered the submissions of both sides.

[7] The law is well settled by a catena of decisions including the decision of the Hon'ble Supreme Court in the case of **Mihir Rajesh Shah vs. State of Maharashtra and another, (2026) 1 SCC 500** that the ground of arrest must be communicated in writing to the arrestee in effective manner. In **Mihir Rajesh Shah** (supra) it is categorically held that the grounds of arrest must be communicated in writing to the arrestee in the language he/she understands. The entire relevant paragraph No.66 is extracted hereunder:

66. In conclusion, it is held that:

66.1. The constitutional mandate of informing the arrestee the grounds of arrest is mandatory in all offences under all statutes including offences under IPC 1860 (now BNS 2023);

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

66.3. 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.

66.4. 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.

[8] Mr. R. Datta, learned P.P. appearing for the State referring to paragraph No.68 of **Mihir Rajesh Shah** (supra) submits that the accused was arrested before the said judgment was passed by the learned Supreme Court and in paragraph 68, it is categorically mentioned by the Hon'ble Supreme

Court that the ends of fairness and legal discipline demand that the procedure as affirmed above in paragraph no. 66 shall govern arrests 'henceforth'.

[9] Prior to **Mihir Rajesh Shah** (supra) in **Vihaan Kumar vs. State of Haryana and another, (2025) 5 SCC 799**, it was also held by the Hon'ble Supreme 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 person arrested. The grounds should be effectively and fully communicated to the arrestee in the manner in which he will fully understand the same.

[Emphasis laid]

[10] In **Vihaan Kumar** (supra), it was also further held that when the arrested accused alleges non-compliance with the requirements of Article 22(1), the burden will always be on the Investigating Officer/Agency to prove compliance with the requirements of Article 22(1).

[11] In the case in hand, the memorandum of communication of grounds of arrest is found to be written in English and the accused person also signed the same in English. However, from the manner and the style of putting his signature therein creates an impression that somehow he had signed it in English. In the interrogation report, the investigating officer has indicated the status of the present accused to be 'uneducated' and his occupation to be 'carpenter'. In his evidence also, the arresting officer has stated that when he enquired from the accused as to whether he knew the English language, the accused replied in negative.

[12] In view of above, the burden becomes heavier on the arresting officer to show effective communication of grounds of arrest to the arrested

accused person. In the memorandum of grounds of arrest, the arresting officer has written a certificate in English that the grounds of arrest was informed and explained to the arrested accused person by the arresting officer and beneath the same, the signature of the accused person was obtained. But, from the said certificate also, it is not clear by which language or in which manner the ground of arrest was explained to the person. Therefore, according to this court, the prosecution has not been able to show satisfactorily about the effective communication of grounds of arrest to the present accused person. For a long period, the accused is in custody and some witnesses are already examined in this case.

[13] In **Vihaan Kumar** (supra), it is directed by the Hon'ble Supreme Court that when a violation of Article 22(1) is established, it is the duty of the court to forthwith order the release of the accused person and that will be a ground to grant bail even if statutory restrictions on the grant of bail exist. Therefore, at which stage the plea of non-communication of grounds of arrest is raised is not much significant, unless it is found that such plea is raised in an afterthought and collusive manner or the same is unacceptable for some other reasons.

[14] Considering all these aspects, the bail prayer of the accused person, namely Malik Miah is allowed. He may go on bail on furnishing a bond of Rs.1,00,000/- [Rupees one lakh] only each along with one surety of the like amount to the satisfaction of the learned Special Judge, Unakoti District, Kailashahar on conditions that:

- (i) he will not, directly or indirectly, try to make any contact with any unexamined witnesses of the case, so as to dissuade him or them from divulging the truth before the court;

(ii) he will furnish his mobile phone number, if any, to the investigating officer and also to the Court of Ld. Special Judge, and shall not change or hand over the SIM card to any other person and shall keep such SIM card in functional mode till the trial is complete;

(iii) he will not leave the State of Tripura without prior permission of the learned Special Judge, Unakoti District, Kailashahar and such permission can be accorded only on special ground;

(iv) he will regularly attend the Court to face the trial and will give his attendance once in a fortnight before the learned Special Judge till trial is complete or this condition is relaxed by Ld. Special Judge;

(v) he will not involve himself in any sort of illegal activities which are prohibited under NDPS Act; and

(vi) violation of any of the above said condition(s) by him, will be a good ground for cancellation of his bail.

With such observations and directions, this bail application is disposed of.

Reconsign the records of the learned trial Court.

Send a copy of this order to the learned Special Judge, Unakoti District, Kailashahar immediately.

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

JUDGE