

**IN THE HIGH COURT OF TRIPURA
AGARTALA**

B.A. No.114 of 2025

Pinki Saha Roy,

D/O- Gopal Bihari Saha Roy, W/O- Sri Raju Barman, R/O- Buddhamandir, Opposite of Bazaar India Shopping Mall, P.O. Ujan Abhoynagar, P.S. NCC, District- West Tripura, PIN-799005

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

For and on behalf of :

Raju Barman

S/O- Late Madan Barman, R/O- Ushabazar, Chinaihani, P.S. Airport, District- West Tripura, PIN-799009

..... **Accused applicant (s)**

V e r s u s

The State of Tripura

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

For the Petitioner/accused applicant (s)	:	Mr. Samrat Kar Bhowmik, Sr. Adv. Mr. E. Darlong, Adv. Mr. S. Bal, Adv. Mr. S. H. Roy, Adv.				
For the Respondent (s)	:	Mr. Sankar Lodh, Special PP Mr. S. Debnath, Adv.				
Date of hearing	:	15.12.2025				
Date of delivery of Judgment & order	:	08.01.2026				
Whether fit for reporting	:	<table border="1"><tr><td>YES</td><td>NO</td></tr><tr><td></td><td>√</td></tr></table>	YES	NO		√
YES	NO					
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HON'BLE MR. JUSTICE S. DATTA PURKAYASTHA

JUDGMENT & ORDER

Section 439 of the Code of Criminal Procedure has been resorted to by Smt. Pinki Saha Roy with a prayer for release of her husband, Sri Raju Barman, the accused applicant, on bail in connection with Airport P.S. Case No.37 of 2024, registered under Sections 302/120B of Indian Penal Code [in short, the IPC], Section 27 of the Arms Act and with added Sections 201/34 of the IPC. The accused was

arrested on 10.07.2024 at Naamghar, Chatabari, P.S. Boko, Kamrup, Assam and since then, he is in custody for more than 496 days.

[2] On 30.04.2024, at around 2025 hours, the informant, Sri Srikanta Guha, SI of Airport P.S. received a telephonic information that a person had been shot at Hatipara under Airport P.S. The police rushed to the spot and found one dead body lying on the side of the road with bullet injuries. Said person was taken to ILS Hospital, Agartala, wherein the Doctor declared him dead and the body was identified to be of Durga Prasanna Deb @ Viki, the then Secretary of Bharat Ratna Club. During local inquiry, it was learned by the police authority that the said incident occurred at about 2010 hours, when the deceased was sitting in a vehicle bearing registration No.TR-06-A-0745 and the said vehicle was parked at Hatipara in front of one medicine shop.

[3] From the near relatives of the deceased, it also revealed that the present accused, Sri Raju Barman along with Sri Rakesh Barman, Sri Debabrata Barman, Sri Biman Das, Sri Pradyut Dhar Chowdhury and some others, entered into a some criminal conspiracy and were involved in the murder of the deceased. Said police officer accordingly lodged a suo-moto FIR against them.

[4] The police authority accordingly registered the above said case and started the investigation.

[5] Meanwhile, the wife of the deceased filed another written FIR against said Sri Raju Barman and 6[six] others alleging that on 30.04.2024, the deceased informed her over phone that he had gone to the house of Sri Biman Das at Gandhigram on his call and that he had also informed the said fact to one of their neighbours, namely Sri Ajoy Sarkar. Thereafter, at around 8.24 pm in the night, one person informed the elder brother of the deceased that the deceased was found lying

with bleeding injuries at Shalbagan BSF para and he was then taken to ILS hospital wherein he was declared as dead. There was sign of bullet injuries on his forehead and chest. It was further alleged that her husband had told her that for last few days, the accused persons were giving threat to kill him as he had protested against their antisocial activities. The said FIR was tagged with the investigation of this case.

[6] During the investigation, the police authority arrested two female accused persons, namely Smt. Susmita Sarkar and her mother, Smt. Uma Sarkar. Their confessional statements were recorded by the Judicial Magistrate after observing all codal formalities. Smt. Susmita Sarkar stated before the Magistrate that after Durga Puja celebrations, one day her younger sister went to Ushabazar for purchasing some medicines and at that time, the deceased came near to her with a vehicle and ultimately, took her to a tea garden and uttered certain filthy comments regarding her breasts and when she told the deceased that her mobile location was on, out of fear, he dropped her again at Ushabazar area. The deceased also subsequently pursued her said younger sister for a physical relationship over phone. For that reason, both Susmita and her said younger sister exchanged their SIM cards with each other. The deceased then started blackmailing Susmita by giving the allurements of providing a job to her in lieu of physical relationship with him. Then Raju Barman called her over phone and asked her about Viki's activities. When Susmita informed the matter to Raju Barman, [the accused], he told her that he would save her from the clutch of the deceased if she would listen to him. As per asking of Viki, one day she alongwith her mother went to Natunnagar via Patunagar and Salbagan market, near medicine shop and then Raju Barman asked her to go in front of Vishaa Beauty Parlour and then to Radhanagar by wearing mask and by covering face. At Radhanagar, Raju Barman received them and took them to his house. In his house, Raju Barman told them that the deceased should be convinced about doing something

with her [Susmita] and he also gave Rs.25,000/- to them with further assurance that he would bear all the expenses of her marriage. Raju Barman also told her to accept the deceased's proposal and that he would protect her but she could not imagine that such type of incident would occur. She agreed with the proposal of Raju Barman as he promised to take care of her and as per his instruction, she fixed a date with the deceased and informed the same to Raju Barman.

[7] As per plan, in the evening, she reached in front of said Vishaa Beauty Parlour and the deceased told her that within 10 minutes, he would arrive there. She, in turn, informed the said fact to Raju Barman and her mother. Her mother also came to the spot. She found Sri Birchakra Ghosh, an ex-member of said Bharat Ratna Club roaming in that area and after a few minutes, 3[three] persons, one of whom was Sri Akash Kar arrived there. The deceased also meanwhile arrived there in his vehicle and asked her to board in his vehicle but she told him that she had to purchase some medicines. Then the deceased through his driver, paid Rs.2,000/- to her. She then again informed the matter to Raju Barman while proceeding towards said medicine shop. The said vehicle of Viki was parked at that time in between said medicine shop and the beauty parlour. She then heard a sound of something and at that Raju Barman who did not come to the spot over phone told her to leave the said place. She did not see anything, but she was nervous. Her mother then took her with her. On the same night, Raju Barman called her mother again over phone and told her to destroy and burn the clothes of Susmita and to hide her mobile handset under the ground and thereafter, he never called her. She was all along innocent. The mother of Susmita however in her confessional statement stated that on the day when they visited the house of Raju Barman, prior to such visit, they spotted the medicine shop as per instruction of Raju Barman.

[8] The Investigating Officer also recorded the statements of many other witnesses, collected the post-mortem report and got the viscera of the deceased examined in the forensic laboratory. One pistol was recovered at the instance of the brother of said Raju Barman, namely, Rakesh Barman from Durgabari cremation ground area and the said firearm was examined by the arms expert.

[9] Finally, on 27.07.2024, the investigating officer submitted the charge-sheet against Sri Raju Barman and Sri Sani Saha Roy under Sections 302, 120B/34 of the IPC and Section 27 of the Arms Act and also against Sri Sandip Kar @ Akash, Sri Rakesh Barman, under similar Sections 302, 120B, 34 of the IPC and Sections 25/27 of the Arms Act. Further, the charge-sheet was submitted against Sri Pradyut Dhar Chowdhury, Sri Birchakra Ghosh, Smt. Susmita Sarkar and her mother Smt. Uma Sarkar under Sections 302, 120B, 34 of the IPC and Section 27 of the Arms Act. He also prayed for custodial trial of the said accused persons. It was further noted by the investigating officer in the charge-sheet that the investigation was continuing for identification and to establish the role and complicity of other associates. It was also stated that the FSL report and other reports in support of the evidence should also be submitted in the Court immediately on receipt of the same through a supplementary charge-sheet. He also submitted the supplementary charge-sheet on 22.04.2025 by submitting certain expert report(s) with certified copies of the CDR and one witness list, containing the names of some experts and officials of Bharati Airtel Ltd., Vodafone and Idea Ltd. to prove those documents.

[10] Mr. Samrat Kar Bhowmik, learned senior counsel appearing for the accused applicant submits that already 4[four] accused persons were granted bail in this case. Out of them, 2[two] women accused persons, namely Uma Sarkar and Susmita Sarkar were granted bail by the learned Sessions Judge and accused, Sri

Birchakra Ghosh was granted bail by this High Court and another accused, Sri Sani Saha Roy was granted bail by the Hon'ble Supreme Court. Learned senior counsel prays for bail of the present accused on the ground of parity submitting further that more than one year he is in custody. Learned senior counsel also submits that both Susmita and her mother gave confessional statements before the Judicial Magistrate but despite the same, the prosecution did not oppose their bail applications and ultimately, they were granted bail.

[11] Learned senior counsel also raises the issue that the partial charge-sheet was submitted within the period of 90 days of detention of the accused applicant just to frustrate his claim for default bail and the final charge-sheet was submitted only beyond the period of 90 days of detention. Learned senior counsel however submits that he is not pressing for any default bail.

[12] Learned senior counsel further submits that the judicial confessions of two women accused persons were exculpatory in nature and based on their statements, the present accused was booked in this case. According to learned senior counsel, those exculpatory statements have no evidential value. On that aspect, he relies on 2[two] decisions of the Hon'ble Supreme Court. In **Kashmira Singh vs. State of Madhya Pradesh, (1952) 1 SCC 275**, the followings were observed by the Hon'ble Supreme Court regarding the use of confessional statement of co-accused.

11. Translating these observations into concrete terms they come to this. The proper way to approach a case of this kind is, first, to marshal the evidence against the accused excluding the confession altogether from consideration and see whether, if it is believed, a conviction could safely be based on it. If it is capable of belief independently of the confession, then of course it is not necessary to call the confession in aid. But cases may arise where the judge is not prepared to act on the other evidence as it stands even though, if believed, it would be sufficient to sustain a conviction. In such an event the judge may call in aid the confession and use it to lend assurance to the other evidence and thus fortify himself in believing what without the aid of the confession he would not be prepared to accept.

[13] In **Rabindra Kumar Pal alias Dara Singh vs. Republic of India**, (2011) 2 SCC 490, the followings were observed by Hon'ble Supreme Court in paragraph no.63:-

“63) In **State of Maharashtra vs. Damu**, (2000) 6 SCC 269, the same principles had been reiterated which read as under:-

"19. We have considered the above reasons and the arguments addressed for and against them. We have realised that those reasons are ex facie fragile. Even otherwise, a Magistrate who proposed to record the confession has to ensure that the confession is free from police interference. Even if he was produced from police custody, the Magistrate was not to record the confession until the lapse of such time, as he thinks necessary to extricate his mind completely from fear of the police to have the confession in his own way by telling the Magistrate the true facts.

25. We may make it clear that in **Kashmira Singh**, AIR 1952 SC 159, this Court has rendered the ratio that confession cannot be made the foundation of conviction in the context of considering the utility of that confession as against a co-accused in view of Section 30 of the Evidence Act. Hence the observations in that decision cannot be misapplied to cases in which confession is considered as against its maker. The legal position concerning confession vis-a-vis the confessor himself has been well-nigh settled by this Court in **Sarwan Singh Rattan Singh v. State of Punjab**, AIR 1957 SC 637, as under:

"In law it is always open to the court to convict an accused on his confession itself though he has retracted it at a later stage. Nevertheless usually courts require some corroboration to the confessional statement before convicting an accused person on such a statement. What amount of corroboration would be necessary in such a case would always be a question of fact to be determined in the light of the circumstances of each case."

This has been followed by this Court in **Kehar Singh v. State (Delhi Admn.)**, (1988) 3 SCC 609.”

[14] Regarding parity of bail, learned senior counsel also relies on other 2[two] decisions of the Hon'ble Supreme Court. In the case of **Abhishek Tripathi vs. State of Uttar Pradesh**, (2020) 18 SCC 441, the Hon'ble Supreme Court granted bail to said accused as other co-accused persons against whom also similar allegations were raised, were released on bail. In the case of **Ramesh Bhavan Rathod vs. Vishanbhai Hirabhai Makwana (Koli) and another**, (2021) 6 SCC 230, it was held that parity while granting bail must focus upon role of the accused. Merely observing that another accused who was granted bail was armed with a similar weapon is not sufficient to determine whether a case for the grant of bail on

the basis of party has been established. In deciding the aspect of parity, the role attached to the accused, their position in relation to the incident and to the victims are of utmost importance.

[15] According to learned senior counsel, two women accused persons, who called the deceased to come to the place of occurrence, were granted bail and furthermore, two other accused persons, namely Sani Saha Roy and Birchakra Ghosh, who were also present in the scene of crime, were also granted bail. Therefore, there is no reason for denial of bail to the present accused. Only allegation against him, submits Ld. Sr. Counsel, is that a meeting was held in his house with some of the co-accused and he coordinated the entire crime. Learned senior counsel also contends that there are total 94[ninety four] witnesses cited in the charge-sheet and therefore, it will take a long time to complete the trial.

[16] The next point as raised by learned senior counsel is that the ground of arrest was not informed to the present accused and his criminal antecedence, if any, have no relevance in this matter while considering this bail application. On that aspect, he relies on a decision of the Hon'ble Supreme Court in the case of **Prabhakar Tewari vs. State of Uttar Pradesh and another, (2020) 11 SCC 648**. The said case was an appeal against granting bail of two accused persons by the High Court and in that contexts, Hon'ble Supreme Court observed that there was no wrong or improper exercise on the part of the High Court in granting bail. It was also observed in the background of the said case that the offence alleged no doubt was grave and serious in nature and there were several criminal cases pending against the accused but those factors by themselves could not be the basis for refusal of prayer of bail. No ex-facie error was found in the High Court's order as it granted the bail to one of the accused namely, Vikram Singh upon considering the relevant materials.

[17] Regarding abscondance of the accused persons, learned senior counsel also relies on further two decisions of the Hon'ble Supreme Court. In the case of **SK. Yusuf vs. State of West Bengal, (2011) 11 SCC 754**, while hearing an appeal from the order of the High Court in dismissing the appeal against conviction, Hon'ble Supreme Court at Paragraph No.31 observed that in case a person was absconding after commission of offence of which he might not even be the author, such a circumstance alone may not be enough to draw an adverse inference against him as it would go against the doctrine of innocence. It was further observed that it was quite possible that he might be running away merely on being suspected, out of fear of police arrest and harassment.

[18] In this regard, the second decision as relied on by learned senior counsel is the decision of the case of **Paramjeet Singh alias Pamma vs. State of Uttarakhand, (2010) 10 SCC 439**. In this case also, while deciding an appeal against conviction of the appellant, the Hon'ble Supreme Court observed that abscondance by a person against whom FIR has been lodged, having an apprehension of being apprehended by the police, cannot be said to be unnatural. Thus, mere abscondance by the appellant after commission of the crime and remaining untraceable for a period of six days itself cannot establish his guilt. Absconding by itself is not conclusive proof of either of guilt or of a guilty conscience.

[19] On the other hand, Mr. Sankar Lodh, learned Special PP appearing for the State, submits that in the instant case, initially warrant was issued against the present accused person, and thereafter, proclamation was also issued and then only he was arrested and therefore, the arrest on the basis of such warrant itself was the ground of arrest and there was no further necessity to inform him separately of any other ground of arrest. Learned Special PP also submits that the accused was the

mastermind of the entire crime, and under his instruction, planning and design, the alleged crime was committed by the others. He was monitoring the entire commission of the crime through his mobile phone. He even absconded just after the occurrence, for which a search had to be conducted by unlocking his house. Learned Special PP further submits that he is a habitual offender with a long criminal history and 07 nos. of cases were/are pending against him relating to commission of heinous offences, including attempt to murder, kidnapping for ransom, dacoity and extortion and he poses a threat to the society.

[20] Regarding the allegation of submitting a partial charge-sheet, Mr. Lodh, learned Special PP submits that the first charge-sheet which was submitted was not at all a part charge-sheet in strict sense, rather after collecting sufficient materials against the accused persons, said charge-sheet was filed and the supplementary charge-sheet was filed thereafter only for the purpose of submissions of certain documents which could not be collected by the investigating officer earlier when initially the charge-sheet was filed. Therefore, for all practical purposes, the first charge-sheet was the final charge-sheet.

[21] In this regard, learned Special PP relies on a decision of Hon'ble Supreme Court in the case of **Narendra Kumar Amin vs. Central Bureau of Investigation and others, (2015) 3 SCC 417**, wherein reference was made to the previous decision of 3-Judge Bench of Hon'ble Supreme Court rendered in **CBI vs. R.S. Pai, (2002) 5 SCC 82**, that normally, the investigating officer is required to produce all the relevant documents at the time of submitting the charge-sheet. At the same time, as there is no specific prohibition, it cannot be held that the additional documents cannot be produced subsequently. If some mistake is committed in not producing the relevant documents at the time of submitting the report or the charge-

sheet, it is always open to the investigating officer to produce the same with the permission of the court. Considering the preliminary stage of prosecution and the context in which the police officer is required to forward to the Magistrate all the documents or the relevant extracts thereof on which the prosecution proposes to rely, the word "shall" used in sub-section (5) cannot be interpreted as mandatory, but as directory. Normally, the documents gathered during the investigation upon which the prosecution wants to rely are required to be forwarded to the Magistrate, but if there is some omission, it would not mean that the remaining documents cannot be produced subsequently. It was also further observed that if further investigation is not precluded, then there is no question of not permitting the prosecution to produce additional documents which were gathered prior to or subsequent to the investigation and the word "shall" used in sub-section (5) cannot be interpreted as mandatory, but as directory.

[22] Learned Special PP also relies on the order dated 12.05.2023 in the case of **Directorate of Enforcement vs. Manpreet Singh Talwar** [Special Leave to Appeal (Crl.) No.5724 of 2023], wherein 3-Judge Bench of the Hon'ble Supreme Court observed that in continuation of the earlier interim order dated 1st May, 2023, it was clarified that the order shall not preclude any trial court or, as the case may be, High Court from considering an application for the grant of default bail under Section 167 of the Code of Criminal Procedure, 1973 independent of and without relying on the judgment dated 26th April, 2023 in Writ Petition (Criminal) No.60 of 2023. The said judgment relates to the case of **Ritu Chhabaria vs. Union of India and others, (2024) 12 SCC 116**, wherein it was observed by the Hon'ble Supreme Court that question of resorting to a supplementary charge-sheet u/s 173(8) of the Cr.PC only arises after the main charge-sheet has been filed, and as such, a supplementary charge-sheet, wherein it is explicitly stated that the investigation is

still pending, cannot under any circumstance, be used to scuttle the right of default bail, for, then the entire purpose of default bail would be defeated, and the filing of a charge-sheet or a supplementary charge-sheet would become a mere formality, and a tool, to ensure that the right of default bail is scuttled.

[23] Regarding bail on the ground of parity, learned Special PP relies on one decision of the Hon'ble Supreme Court in the case of **Mahadev Meena vs. Praveen Rathore and another, (2021) 17 SCC 788**, wherein referring to another decision of Hon'ble Supreme Court in the case of **Ramesh Bhavan Rathod vs. Vishanbhai Hirabhai Makwana, (2021) 6 SCC 230**, it was observed that while granting bail, the High Court must focus on the role of the accused in deciding the aspect of parity.

[24] The said case of **Ramesh Bhavan Rathod** (supra) was also referred in another recent decision of the Hon'ble Supreme Court in the case of **Sagar vs. State of Uttar Pradesh and another, (2025) SCC OnLine SC 2584**, as relied on by Mr. Lodh, learned Special PP. In the said case also, observation of the Hon'ble Supreme Court was that while considering the bail on the ground of parity, focus must be on the role of the accused and could not be utilised solely because another accused was granted bail in connection with the same offence.

[25] Learned Special PP submits that it has come out from the investigation that during the period from 01.03.2024 to 30.04.2024, the accused had conversation with co-accused, Sri Pradyut Dhar Chowdhury about 191 times over phone and such CDR was also submitted along with the charge-sheet and even the accused has destroyed the digital evidence. According to learned Special PP, if he is released on bail, again he will engage himself in destroying the evidence in such a sensitive case causing serious prejudice to the trial. Learned Special PP also submits that the High Court rejected the bail application of co-accused, Sri Pradyut Dhar Chowdhury on

the ground that he was connected with the present accused over phone for such a long period continuously.

[26] Mr. Kar Bhowmik, learned senior counsel, however in reply submits that mere talking over telephone will not give rise to any conclusion of complicity of the accused in the alleged crime. According to him, another accused, Birchakra Ghosh was also absconded but he was granted bail. When the wife of the deceased, learned senior counsel submits, lodged the FIR mentioning the names of several persons of that area as accused, all of them absconded, moreover, the charge-sheet contains no allegation of any sort of extortion or demanding money by the accused person from any other person and therefore, such plea that he was previously engaged in extortion of money is quite irrelevant.

[27] This Court has considered the submissions of both sides and also the materials placed by the investigating agency.

[28] So far the plea that the ground of arrest was not communicated to the accused, is concerned, it is a fact that he was arrested on the basis of warrant issued by the Magistrate as he was an absconder since long and the police somehow traced him in the neighbouring state of Assam. As per the observations made by the Hon'ble Supreme Court in **Kasireddy Upender Reddy vs. State of Andhra Pradesh & Ors., 2025 SCC OnLine SC 1228**, if a person is arrested on a warrant, the grounds for reasons for the arrest is the warrant itself; if the warrant is read over to him, that is sufficient compliance with the requirement that he should be informed of the grounds of arrest. In the case in hand, there is no such plea from the side of accused that he was not made known that he was arrested under a warrant of arrest. In view of above, such plea as raised on behalf of the accused, is not accepted.

[29] So far the second issue as raised that a partial charge-sheet was submitted in a half-done manner within 90 days from the date of detention of the accused just to frustrate his right to claim of default bail, already, it is discussed earlier in paragraph no.8 that the charge-sheet was submitted within 90 days with sufficient particulars as required under section 173(8) of the Cr.P.C and through the subsequent charge-sheet supplementary in nature, some reports as were received by the investigating officer later on, were submitted with list of names of witnesses through whom said documents were to be proved. Therefore, such plea is also not convincing.

[30] There are prima-facie materials that Sri Raju Barman, Sri Rakesh Barman, Sri Pradyut Dhar Chowdhury and others would regulate the function of Bharat Ratna Sangha Club, Ushabazar and they would collect commission money from the contractors of CPWD, office of which is located in the same area and the contractors had to give 3% to 4% of price of the work to them. Sri Raju Barman would lead the team to extort such money. There are also prima-facie materials that due to change in the portfolios of Bharat Ratna Club in the month of February, 2024, said Raju Barman no longer remained as Joint Secretary of the said club, whereas the deceased became the Secretary of the same, for which the accused and his companion lost the opportunity to collect such commission money from the contractors. This way enmity grew up between them.

[31] From the confessional statement of Smt. Susmita Sarkar made before the Judicial Magistrate, it appears that Raju Barman gave her Rs.25,000/- when as per asking of Raju Barman, she went to his house with her mother. There, Raju Barman proposed her to fix a date with the deceased to meet with him. Thereafter, she informed the matter to Sri Raju Barman and as per plan, she reached to the spot

and the deceased also arrived there and the incident occurred. The evidential value of such confession will be decided during trial.

[32] There are also prima-facie materials that prior to the alleged incident, Raju Barman used to give threat to the deceased and even he and his associates tried to restrain the deceased from being the Secretary of the said club. Prima-facie materials are also there that Raju Barman and his associates had also directly threatened the deceased to kill him and that after the incident, the hard disk of CCTV camera of the house of Raju Barman was changed for the purpose of hiding the fact of visit of said Susmita Sarkar and her mother in his house. The technician who removed the said hard disk from the house of Raju Barman also in his statement before investigating officer and the Magistrate stated that Mr. Kar Bhowmik had asked him to repair the CCTV of his house and also to change the CCTV hard disk of his client. Thereafter, he met with accused, Sunny Saha Roy and finally, changed the hard disk of CCTV set up in a double storied house, situated at Radhanagar. As per the statements of the domestic helper of house of Raju Barman, Sunny Saha Roy went to the house of Raju Barman with two persons, unlocked the door and did something secretly there. As per the investigating officer, during search, they found the DVR attached to the CC camera of the house of Raju Barman was found to have been replaced.

[33] Court is of the prima-facie view that such attempt of destruction of evidence at the instance of the accused is a matter of grave concern in such a sensational and pre-planned murder case. The antecedents of Sri Raju Barman are also not good and earlier 7[seven] criminal cases against him were either pending or disposed of, though according to learned senior counsel, in some cases he was already acquitted. When there are prima-facie evidences of his habit in giving threats

to others and attempt of destruction of evidence by him, such circumstance, does not lend the assurance that if he released on bail, he will not try to influence or terrorise any witness of the case or will not try to destroy the evidences further.

[34] In respect of the relevant parameters for granting bail, Hon'ble Supreme Court in the case of **Ajwar vs. Waseem and another, AIR 2024 SC 2885**, as relied on by learned Special PP, laid down the followings:

“26. While considering as to whether bail ought to be granted in a matter involving a serious criminal offence, the Court must consider relevant factors like the nature of the accusations made against the accused, the manner in which the crime is alleged to have been committed, the gravity of the offence, the role attributed to the accused, the criminal antecedents of the accused, the probability of tampering of the witnesses and repeating offence, if the accused are released on bail, the likelihood of the accused being unavailable in the event bail is granted, the possibility of obstructing the proceedings and evading the courts of justice and the overall desirability of releasing the accused on bail. (Refer : Chaman Lal v. State of U.P and another, (2004) 7 SCC 525; Kalyan Chandra Sarkar v. Rajesh Ranjan alia Pappu Yadav and Another (supra); Masroor v. State of Uttar Pradesh and Another, (2009) 14 SCC 286; Prasanta Kumar Sarkar v. Ashis Chatterjee and Another, (2010) 14 SCC 496; Neeru Yadav v. State of Uttar Pradesh and Another, (2014) 16 SCC 508; Anil Kumar Yadav v. State (NCT of Delhi) and Another, (2018) 12 SCC 129; Mahipal v. Rajesh Kumar alias Polia and Another (supra).”

In said case, three accused persons were in the custody for more than two years and in that context, Hon'ble Supreme Court held that they were in custody for less than three years in a serious offence like double murder and ultimately, cancelled their bail. The relevant paragraph no.33 containing such observations is also reproduced hereunder:

“33. Furthermore and most importantly, the High Court has overlooked the period of custody of the respondents-accused for such a grave offence alleged to have been committed by them. As per the submission made by learned counsel for the State of UP, before being released on bail, the accused-Waseem had undergone custody for a period of about two years four months, the accused-Nazim for a period of two years eight months, the accused-Aslam for a period of about two years nine months and the accused Abubakar, for a period of two years ten months. In other words, all the accused-respondents have remained in custody for less than three years for such a serious offence of a double murder for which they have been charged.”

[35] So far the claim of bail on the ground of parity by the accused applicant is concerned, the case of Sri Raju Barman stands on a different footing than other

accused persons. Two women accused persons were released on bail by the learned Sessions Judge as the prosecution did not oppose their bail on the ground that they had cooperated with the investigation and had given confessional statements before the Judicial Magistrate. Accused, Sri Birchakra Ghosh was granted bail by the High Court only on the ground that he was not an FIR named accused and he was in jail for a considerable period. Accused, Sri Sani Saha Roy was granted bail by the Hon'ble Supreme Court on the ground that the main allegation of firing was assigned to Sri Sandip Sarkar @ Akash and as per the evidence, he was simply present at the site of the incident.

[36] As per the observation made by the Hon'ble Supreme Court in the case of **State of Karnataka vs. Sri Darshan Etc. (2025) SCC OnLine 1702**, at paragraph No.20.4 that mere filing of a charge-sheet does not confer an indefeasible right to bail. Likewise, the mere prospect of a prolonged trial cannot, by itself, outweigh the gravity of the offence, the incriminating material gathered during investigation, or the likelihood of tampering with witnesses. Thus, lengthy list of witnesses in the charge-sheet cannot be a ground for releasing the accused on bail.

[37] Considering all these aspects, this Court is not inclined to grant bail to the accused, Sri Raju Barman. Accordingly, the same is rejected at this stage. However, observations made hereinabove will not have any bearing during trial, for, same is done for limited purpose of deciding the bail application.

Reconsign the trial Court's records with a copy of this order.

Returned the case diary along with a copy of this order.

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

JUDGE