

**HIGH COURT OF TRIPURA
AGARTALA
B.A. No.19 of 2025**

Matiur Rahman,
S/O Ajid Ulla,
R/O Muslim Para, Noabari,
P.O.- Killabazar, P.S. – Killa,
District-Gomati, PIN-799114,
Aged about 46 Years.

**.... Petitioner on behalf of the
Accused Person in Custody**

Rana Shek,
S/O Matiur Rahman,
R/O Khejurbagan, P.O.- Kathalbagan,
P.S.- New Capital Complex,
District – West Tripura,
PIN-799006, Aged about 28 Years.

.... Accused Person

Versus

The State of Tripura,

.....Respondent

For Applicant(s)	:	Mr. Arijit Bhaumik, Adv.
For Respondent(s)	:	Mr. Raju Datta, P.P.

HON'BLE MR. JUSTICE BISWAJIT PALIT
Order

01/04/2025

This bail application under Section 483 of BNSS, 2023 is filed for releasing of the accused Rana Shek on bail who is lodging in custody in connection with West Agartala P.S. Case No.21 of 2025 under Section 20(b)(ii)(c)/25/27/29 of NDPS Act.

Heard Learned Counsel Mr. Arijit Bhaumik appearing on behalf of the accused in custody and also heard Learned P.P. Mr. Raju Datta appearing on behalf of the State-respondent.

Taking part in the hearing Learned Counsel Mr. A. Bhaumik appearing on behalf of the accused in custody first of all drawn the attention of the Court referring the contents of the FIR

and submitted that in this case the seizure is not made in accordance with the provisions of this act. He further submitted that, in this case there is total non compliance of the provisions of Section 50, 42, 1, 41 of NDPS Act and for non compliance of the mandatory provisions of the act, the present case does not lie against accused in custody and furthermore Learned Counsel also submitted that the seized item is of intermediate quantity. So considering the materials on record the accused may be released on bail in any condition. On the other hand, the Learned P.P. Mr. R. Datta appearing on behalf of the State-respondent submitted that the submission of Learned Counsel Mr. A. Bhaumik cannot be accepted at this stage and he submitted that in view of the provision of Section 37 of NDPS Act at this stage there is no scope to release the accused on bail and urged for further detention of the accused in custody for the sake of investigation of this case. He also relied upon one citation of the Hon'ble Supreme Court of India in **Ranjan Kumar Chadha Vs. State of Himachal Pradesh** reported in **2023 SCC OnLine SC 1962** wherein in Para No.98 the Hon'ble Apex Court observed as under:-

"98. This Court in State of Haryana v. Mai Ram, (2008) 8 SCC 292, while examining the scope of Section 50 held as under:-

"14. ... A bare reading of Section 50 shows that it only applies in case of personal search of a person. It does not extend to search of a vehicle or a container or a bag, or premises. (See Kalema Tumba v. State of Maharashtra, State of Punjab v. Baldev Singh and Gurbax Singh v. State of Haryana).

15. The language of Section 50 is implicitly (sic explicitly) clear that the search has to be in relation to a person as contrasted to search of premises, vehicles or articles. This position was settled beyond doubt by the Constitution Bench in Baldev Singh case [(1999) 6 SCC 172]. A similar question was examined in Madan Lal v. State of H.P.[(2003) 7 SCC 465]."

Referring the same, he submitted that from the above principle of law it is clear that since the contraband item was recovered from the motor bike of the accused in custody, so the submission of Learned Counsel for the accused Mr. A. Bhaumik that

Section 50 of NDPS Act has not been complied with, is not correct and cannot be accepted. He also referred another citation of the Hon'ble Apex Court reported in **Union of India Through Narcotics Control Bureau, Lucknow Vs. Md. Nawaz Khan** reported in **(2021) 10 SCC 100** wherein Para No.33 the Hon'ble Apex Court observed as under:-

"33. In the complaint that was filed on 16-10-2019 it is alleged that at about 1400 hours on 26-3-2019, information was received that between 1500-1700 hours on the same day, the three accused persons would be reaching Uttar Pradesh. The complaint states that the information was immediately reduced to writing. Therefore, the contention that Section 2 of the NDPS Act was not complied with is prima facie misplaced. The question is one that should be raised in the course of the trial."

Referring the same, Learned Counsel submitted that if there is any a procedural defects or failure that can be raised during the course of trial not at the stage of investigation. So, according to Learned P.P. the submission of Learned Counsel for the accused also cannot be accepted at this stage. He also referred another citation of this High Court reported in **State of Tripura Represented by Ld. Public Prosecutor Vs. Mahabul Alam and Others** reported in **2023 SCC OnLine Tri 777** wherein Para No.17 a coordinate Bench of this High Court observed as under:-

"17. From the aforesaid enunciations of law on the subject, it is abundantly clear, that the Courts while considering the application for bail must strictly adhere to the two conditions embodied in Section 37 of the NDPS Act, and must record its reason of satisfaction that there are substantial probable causes for believing that the accused is not guilty of committing such offence and that there is no likelihood of repetition of committing such offence by the accused while on bail. It is re-iterated that while considering the bail application filed by the accused arrested under the penal provisions of the NDPS Act, learned Special Judges should be confined within the limits embodied in Section 37 of the NDPS Act. Procedural violations, if any, shall be taken into consideration during the course of trial, and not at the stage of consideration of bail application."

Referring the same, he submitted that from the aforesaid citation it is crystal clear that procedural violations if any that can be taken during the course of trial not at the stage of considering the bail application.

In the case at hand the prosecution was set into motion on the basis of an FIR laid by Inspector Debabrata Biswas of Ramnagar Town Outpost to OC, West Agartala PS alleging *inter alia* that on 06.03.2025 at about 1245 hrs. he received secret in telephonic information that one motor bike bearing Registration No. TR-03L-4592 was preceded towards Lankamura from Border Golchakkar hanged with two nos plastic bags containing huge quantities of Dry Ganja in the back seat of the said motor vehicle. It was also his information that the said contraband may be smuggle to Bangladesh through India Bangladesh International Border. The matter was noted in Ramnagar TOP GDE No.10 dated 06.03.2025.

The information was immediately conveyed to O/C, West Agartala P.S., SDPO Sadar and SP West over telephone and as well as R/G. Subsequently, SDPO Sadar has given authorization and directed to him to take immediate action as per law. Accordingly, he along with officer and staff proceeded towards Lankamura to verify the information and the same information was also shared with Shri Om Prakash Swami, Assistant Commandant of BOP Lankamura and accordingly a joint operation plan was chalked out with 42 B.N BSF of BOP Lankamura to detain the alleged motor bike bearing Registration No.-TR-03L-4592.

At about 1320 hours at Lankamura on bricks soling road from Sharma Lunga to Pal Para road near India Bangladesh International Border fencing, the informant and the raid team manage to detain one person when he was proceeding towards Pal

Para from Sharma Lunga by riding one motor bike bearing Registration No.-TR-03L4592, in which back seat hanged two plastic bags containing with some packets. On preliminary interrogation the detained person disclosed his named as Rana Shek son of Matiur Rahaman.

Thereafter, he called one local person to remain present as independent witness during the process of search and seizure. He issued notice under Section 50 of NDPS Act and also Pre-search Notice to Rana Shek and accordingly he has given consent to conduct search and after that they conducted search in presence of witnesses and in course of search they recovered 11 packets wrapped with brown colour adhesive tape containing suspected to be dry fruiting top, seed parts of Ganja (Cannabis) from plastic bags which hanged in said motor bike. Strong smell was coming out from the said packets. Accordingly, the recovered packets of Ganja was marked as "P-1" to "P-11" and all the packets were duly measured with the help of digital weighing machine and each packet contained 02 Kg dry fruiting top, seed parts of Ganja (Cannabis). During search they also recover two android mobile phones, original Driving Licence of Rana Shek, Original Aadhar Card of Rana Shek, one Axis Bank Debit Card and one money bag containing Indian Currency Rs1270/-.

Later on, at about 1425 hours he seized the Dry Ganja (Cannabis) packets of weighing 22 Kg in total, motor bike and other items in presence of witnesses by preparing seizure list and on interrogation it was disclosed by the accused that the said contraband items would be handed over to the drug peddler of Bangladesh and for this purpose he received money from other drug peddlers through PhonePe using UPI apps. Accordingly, the informant laid the FIR and on the basis of the FIR West Agartala, P.S. Case

No.21 of 2025 under Section 20(b)(ii)(c)/25/27/29 of NDPS Act was registered.

I have heard both the sides at length and perused the relevant prosecution papers and the relevant provisions of law and the citations as referred by Learned P.P. representing the State-respondent.

Considering the allegation of prosecution and the materials on record and as well as the principle of law laid down by the Hon'ble Apex Court it appears to this Court that procedural violation if any, may be taken up during the course of trial not at the stage of investigation. So, the submission made by Learned Counsel for the accused cannot be accepted at this stage.

Hence, the bail application filed on behalf of the accused stands rejected being devoid of merit. The accused is to remain in JC as before.

With this observation this bail application stands disposed of.

Send down the LCR along with a copy of this order. Return back the CD to IO through Learned P.P. along with a copy of this order.

JUDGE

MOUMITA DATTA

Digitally signed by MOUMITA
DATTA
Date: 2025.04.02 16:12:11 +05'30'