

**HIGH COURT OF TRIPURA
AGARTALA**

Tr. P. (Crl.) No.2 of 2025

Sri Abhijit Bhowmik, S/o Sri Swapan Kr. Bhowmik, R/o Kanchanmala, P.O. &
P.S. Amtali, District – West Tripura.

..... Petitioner(s).

V E R S U S

State of Tripura

..... Respondent(s).

For Petitioner(s) : Mr. Ratan Datta, Advocate,
Mr. Ankan Tilak Paul, Advocate,
Mr. Aditya Baidya, Advocate.

For Respondent(s) : Mr. Raju Datta, Public Prosecutor.

HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH

Order

28/05/2025

The petitioner is the accused whose prayer under Section 448 of BNSS, 2023, for transferring the case bearing SPL (NDPS) No. 08/2025 from the Court of the learned Special Judge, North Tripura, Dharmanagar to the Court of the learned Sessions Judge, North Tripura, Dharmanagar or any other competent Court within the jurisdiction of that district has been rejected by the Sessions Judge, North Tripura, Dharmanagar, vide impugned order dated 20.05.2025 passed in Criminal Misc. No.14 of 2025. The petitioner preferred the application for transfer on the ground that cross-examination of PW-I was closed hurriedly without adequate opportunity to the petitioner. Another ground taken by the petitioner is that the bail application was rejected earlier by the learned Special Judge. Learned Sessions Judge, North Tripura, Dharmanagar, however, refused to allow the application on the ground that the proper remedy for such a grievance is not for transfer of the trial to another Court as per the conditions laid down under Section 448 of the BNSS, 2023. Therefore, being aggrieved, the petitioner has approached this Court.

Mr. Ratan Datta, learned counsel for the petitioner submits that certain observations made by the learned trial Court do not inspire confidence that the petitioner would be getting a fair trial. Therefore, he has sought transfer of the case to the competent Court of any other jurisdiction.

Mr. Raju Datta, learned Public Prosecutor for the respondent-State, has strongly opposed the prayer. He submits that the closure of the evidence of a prosecution witness is not a ground to seek transfer of the trial to another Court or a Court of another jurisdiction. The BNSS, 2023, provides for a specific remedy for recall of witnesses on permissible grounds. On the other hand, the petitioner has remedy against rejection of his bail application by the concerned Court. In any case, the allegations made by the petitioner do not make out a case for transfer of SPL (NDPS) No. 08/2025 either to any other Sessions Court in the same jurisdiction or outside the district, as no apprehension of lack of fair trial is made out or that the case involves question of law of any unusual difficulty or that it would tend to facilitate the general convenience of the parties or witnesses in the ends of justice.

Mr. Ratan Datta, learned counsel for the petitioner, submits that the prayer for recall of the PW-I under Section 348 of the BNSS, 2023 has earlier been rejected vide order dated 06.05.2025. However, the said order is not under challenge. It was a ground to seek transfer of the criminal trial to another Court.

Upon hearing the learned counsel for the parties and after taking note of the materials placed from record and on perusal of the impugned order, this Court is of the considered opinion that the petitioner has failed to make out any grounds provided under Section 447 or 448 of the BNSS, 2023. The

closure of the evidence of prosecution witness cannot be a ground for seeking transfer of the trial to another Court. Any order for closure of evidence of prosecution witness can be challenged under the relevant provisions of the BNSS, 2023. The rejection of the prayer for bail earlier can also not be treated as a ground for apprehension of lack of fair trial. None of the other two grounds under Section 447(1)(b) and (c) are made out. Therefore, the impugned order does not suffer from any errors.

However, Mr. Ratan Datta, learned counsel for the petitioner, submits that this Court may allow one more liberty to the petitioner to seek recall of the witness (PW-I) by making a proper application before the learned Court.

In view of the above facts and circumstances of the case, such liberty is allowed. However, no grounds for interference in the impugned order is made out.

Accordingly, the instant petition is dismissed.

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

(APARESH KUMAR SINGH), CJ