

**HIGH COURT OF TRIPURA
AGARTALA**

B.A. No.53 of 2025

Smt. Mangali Sarkar,
W/O Lt. Subhas Sarkar,
Taranagar, South Taranagar G.P.,
Dhacai Pally, West Tripura,
Pin-799211.

---- Applicant

On behalf of

Shri Pradip Sarkar,
S/O Lt. Subhas Sarkar,
Taranagar, South Taranagar G.P.,
Dhacai Pally, West Tripura,
Pin-799211.

---- Accused-person

Versus

The State of Tripura

----Respondent(s)

For Applicant(s)	:	Mr. Bibhal Nandi Majumder, Sr. Adv, Mr. Samrat Sarkar, Adv, Mr. Rounak Chakraborty, Adv.
For Respondent(s)	:	Mr. Raju Datta, P.P., Mr. Rajib Saha, Addl. P.P.

HON'BLE MR. JUSTICE BISWAJIT PALIT

Order

17/07/2025

This bail application under Section 439 of Cr.P.C. was filed for granting bail to the accused person in custody namely Pradip Sarkar in connection with Airport PS case No.55 of 2023 for the offence punishable under Section 21(C)/25/29 of NDPS Act.

Heard Learned Senior Counsel Mr. Bibhal Nandi Majumder assisted by Learned Counsel Mr. Samrat Sarkar and Learned Counsel Mr. Rounak Chakraborty appearing on behalf of the accused person in custody and also heard Learned P.P. Mr. Raju Datta along with Learned Addl. P.P. Mr. Rajib Saha appearing on behalf of the State-respondent.

By this time we have received the record from the Learned Trial Court. Also, Learned P.P. has produced the Case Diary.

Taking part in the hearing Learned senior Counsel first of all has drawn the attention of the Court that the accused has been falsely implicated in this case. Secondly, no contraband item was recovered from his possession. Thirdly, he was not the driver-cum-registered owner of the vehicle rather one Sabita Debnath was the registered owner of the vehicle. No notice was served upon him. Referring the documents annexed with the application, learned senior Counsel further submitted that without any basis the accused person has been falsely entangled in the case and lodging in custody. Further in advancing his argument, learned senior Counsel has also drawn the attention of the Court that the grounds of arrest were not communicated to the accused. Furthermore, it was submitted referring Annexure-7 and Annexure-8 that in the year 2021 the same vehicle bearing No.TR-01-G-1741 has been seized by the forest department and if it is so, then how the prosecution has again shown the same number to be involved with the alleged offence. So, in summing up, learned senior Counsel urged for releasing the accused on bail in any condition.

On the other hand, Learned P.P. appearing on behalf of the State-respondent partially admitted the submission made by learned senior Counsel and submitted that in both the said forest case and in this present case, same number of vehicle has been shown and according to police, the number plate of the vehicle has been forged. In support of his submission, Learned P.P. further submitted that there is direct allegation against the

accused person in custody that on the alleged day he had driven the vehicle. Further, the original registered owner of the vehicle Smt. Sabita Debnath herself confessed that she is the registered owner and later on she transferred the vehicle by executing a notarized document to the accused but inspite of her persuasion, the present accused person in custody on different pleas refused to get the vehicle registered in his name due to some reasons which was unknown to her. Learned P.P. further submitted that the grounds of arrest have been communicated to the accused person in writing. So, the submission of learned senior Counsel cannot be accepted. Furthermore, considering the nature of allegation and the contraband items collected which shows that huge quantum (commercial quantity) of contraband item was seized in connection with this case. So, in view of the provision of Section 37 of NDPS Act, there is no scope to presume the accused to be innocent and accordingly, learned P.P. urged for rejection of the bail application. Considered.

The facts of the prosecution case, in short, is that on the basis of a secret information received by SI/G Sailesh Kumar of BSF on 22.07.2023, an unknown vehicle was coming from Narayanpur market side to West Narayanpur village via Raghu check post having some contraband article like Eskuf Cough Syrup. A special MCP party consisting of No.11365168 SI/GD Birbal Das, ASI Jagdish Raj, Head Constable Shankar Thapa, Constable Rahul Chand, Constable Rakesh Paul in total 5 persons were performing duty at check post. That time, a vehicle bearing No.TR-01-G-1741 was coming from Narayanpur market and stopped about 50 meters away from check post after seeing the security personal at Raghu check post near B.P. No.2018/1-s.

After seeing the vehicle, the BSF persons rushed towards the direction of the vehicle but the vehicle fled away from the spot towards village of West Narayanpur side after taking the advantage of dense vegetation and bamboo bushes and the driver could not be apprehended. On search of the vehicle by the mcp party, total 200 nos. of ESKUF cough syrup was found and thereafter the matter was informed to their higher authority. Later on, recovered contraband items and the vehicle was seized by the complainant and handed over to the Airport PS with a complaint against the driver of the vehicle. Accordingly, the case was registered in the year 2023 i.e. on 23.07.2023. In course of investigation, the IO issued notice to the original registered owner of the vehicle namely Sabita Debnath. She appeared and submitted that by executing a notarized document she has transferred the vehicle to the accused person in custody but inspite of her request the accused person did not take any step for changing the registration number in his favour. The IO also served notice upon the accused person but he found absconded.

I have also perused the Case Diary very meticulously. From the statement of witnesses so far collected by IO, it appears that on the alleged day the present accused also had driven the said vehicle. From the Case Diary, further it appears that a vehicle of similar number was seized by forest department in connection with a forest case and in this regard, verification is going on and on verification, it was found that a forged number plate was affixed in another vehicle. In the present case, the number of the vehicle was TR-01-G-1741(TATA 275 idi-5 NABS II). This present accused person has been produced under arrest before the Court of Learned Special Judge on 09.04.2025 since then he is lodging

in custody. From the relevant prosecution papers, the *prima facie* involvement of the accused cannot be ruled out at this stage.

Furthermore, from the materials so far collected by IO, I find no scope to presume that the present accused person in custody is innocent in view of the provision provided under Section 37 of NDPS Act.

So, considering the materials on record, I cannot agree with the submission made by learned senior Counsel and accordingly, the bail application filed on behalf of the accused stands rejected. The accused is to remain in J/C as before.

With this observation, this bail application stands disposed of.

Send down the record of Learned Trial Court along with a copy of this order.

Return back the Case Diary to IO through Learned P.P. along with a copy of this order.

JUDGE