

**HIGH COURT OF TRIPURA
AGARTALA
BA No.54 of 2025**

Khadija Sultana,
D/O: Mijanur Rahaman,
Resident of Thakurmura, Nagar Panchayet,
Ward No.01, P.S. Sonamura,
District: Sepahijala, Tripura

**---Applicant on behalf of
accused person in
custody**

Mijanur Rahaman (42),
S/O Late Sayed Ali,
Resident of Thakurmura,
Nagar Panchayet, Ward No.01,
P.S. Sonamura, District: Sepahijala,
Tripura

**---Accused person in
custody**

-Vs-

The State of Tripura

---Respondent

For Applicant(s)	:	Mr. Siraj Ali, Adv.
For Respondent(s)	:	Mr. Rajib Saha, Addl. P.P.

HON'BLE MR. JUSTICE BISWAJIT PALIT

Order

18/07/2025

This bail application is filed by the accused in custody namely Mijanur Rahaman for granting bail in connection with Sonamura P.S. Case No.2023/SNM/118 corresponding to Spl. NDPS 97 of 2023 under Section 20(b)/(ii)(c)/25/29 of NDPS Act. By this time we have received the record from the Learned Trial Court and also the case diary is produced.

Heard Learned Counsel Mr. Siraj Ali appearing on behalf of the accused in custody and also heard Learned Addl. P.P. Mr. R. Saha appearing on behalf of the State.

At the time of hearing Learned Counsel Mr. S. Ali appearing on behalf of the accused in custody first of all drawn the attention

of the Court that initially the accused was granted bail after filing of chargesheet by I.O. by the Learned Trial Court. Thereafter his bail was challenged before this High Court and this High Court after hearing allowed the application of the State and directed the accused to surrender before the Learned Trial Court by order dated 20.06.2024 in connection with Case No.BA 30/2024 and accordingly the accused surrendered before the Learned Trial Court and on and from 05.07.2024 he is lodging in jail.

Learned Counsel further submitted that by this time the trial has commenced and till date the prosecution has examined 11 nos. of witnesses. But from the evidence on record it is clear that there is no chance of convicting the accused in this case as because the prosecution in this case has failed to prove the compliance of the provision of Section-42 of NDPS Act and furthermore no sample was taken at the spot and referring the evidence of PW-9, and the informant and also referring the contents of GD he submitted that those were manufactured and manipulated and finally Learned Counsel drawn the attention of the Court referring the order dated 01.05.2025 passed by Learned Special Judge, Sepahijala District, Sonamura and submitted that after closure of the prosecution evidence the case was posted for 313. But the Learned Trial Court again re-fixed the calendar for recording evidence of witnesses and thereafter again by the order dated 03.06.2025 it was ordered for examination of CS witnesses No.12, 13, 14 and 15 fixing 22.07.2025 and 23.07.2025. Learned Counsel further submitted that grounds of arrest were not communicated to the accused and referring some citations of the

Hon'ble Apex Court finally Learned Counsel urged for releasing the accused on bail in any condition.

On the other hand, Learned Addl. P.P. strongly opposed the submission made by Learned defence Counsel and submitted that the submission of Learned defence Counsel cannot be accepted at this stage as because referring the contents of the FIR, and contents of pre-search and search memo he submitted that there may be some typing errors in the extract copy of GD but from the seizure it is crystal clear that contraband item of commercial quantity was recovered from the possession of the accused. So the plea taken by the accused cannot be accepted at this stage and furthermore regarding procedural irregularities it is the trial court who is to consider all the issues at the time of delivery of judgment of this case and not in hearing of this bail application. Learned Addl. P.P. further submitted that if at this stage all the issues are considered that would affect the trial of the case and finally Learned Addl. P.P. referring the judgment of the Hon'ble Supreme Court submitted that since the case is at the stage of almost completion of trial. So considering the materials on record his bail cannot be considered and urged for rejection of the bail application.

In this case the prosecution was set into motion on the basis of an FIR laid by the informant S.I. Prasenjit Debnath to O/C Sonamura PS alleging inter alia that on 18.08.2023 at about 12.00 hours on the basis of secret information that huge quantum of cannabis concealed in the house of the accused. He entered the matter in the PS GDE No.19 dated 18.08.2023 and thereafter he informed the matter to O/C Sonamura PS and to SDPO, Sonamura following the procedure vested under Section-42 of the NDPS Act

in reference to Sonamura PS GDE No.22 dated 18.08.2023 and after that he along with Inspector Chittaranjan Reang and other PS Staff conducted raid in the house of the accused namely Mijanur Rahaman and in course of search he recovered 100kgs of dry cannabis in a store room in the residence of the accused in two numbers blue colour plastic drams and after that in presence of independent witnesses he seized the same and prior to that he conducted pre-search and accordingly after observing all the formalities he caused arrest of accused and forwarded him before the Court after having registration of this case and after completion of investigation the I.O. laid chargesheet against the accused. This is the gist of the prosecution case.

By this time after framing of charge the prosecution out of 15 numbers of witnesses have adduced 11 numbers of witnesses. Only four witnesses for examination are awaiting for examination. It is on record that initially the accused was granted bail by this High Court and thereafter his bail application was cancelled on the approach of the prosecution and since then he is lodging in custody. However, I have also perused the evidence on record. The judgment is yet to be pronounced. The citations as referred by Learned defence Counsel for the accused are almost after conclusion of trial. So those cannot be applied in this case at this stage excepting one citation wherein the Hon'ble Supreme Court after perusal of the evidence of the prosecution granted bail. But the fact of that case is distinguishable in nature with this case as such the same cannot be applied in this case.

Further as submitted by Learned Counsel for the accused since the contraband item was directly recovered from the possession of the accused and from the pre-search and seizure

memo it is crystal clear that he was aware about the seizure of the items from his possession. So the plea of Learned Counsel that the ground of arrest was not communicated cannot be accepted at this belated stage and furthermore he was also produced before the Court within 24 hours of his arrest and duly represented by his lawyer.

I have also perused the record and the order of Learned Special Judge dated 01.05.2025. After recording evidence of witnesses there is very least scope to re-call the witnesses again in view of provision provided under Section 311 of Cr.P.C. Because the scope for examination under Section 311 of Cr.P.C. is very limited. Since the evidence of the prosecution is almost completed excepting the evidence of four witnesses. So it is ordered that Learned Special Judge shall make all endeavour to dispose of the case within a period of two months from the date of receipt of copy of this order. However, considering the materials on record at this stage there is no scope to allow the bail application filed by the accused and accordingly the same stands rejected. Since the judgment is yet to be pronounced, so bail order is passed without entering into the merit of the case. Accused is to remain in J/C as before.

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

Return back the CD to the I.O. through Learned Addl. P.P. along with a copy of this order.

In view of the above, this bail application stands disposed of.

**MOUMITA
DATTA**

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JUDGE