

**HIGH COURT OF TRIPURA
AGARTALA
BA No.55 of 2025**

Smt. Rimi Gope Biswas,
W/O: Mangaldip Biswas,
Resident of Joynagar, Dashamighat,
P.S. West Agartala,
District: West Tripura, 799 001

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

Sri Mangaldip Biswas,
S/O Late Chandan Biswas,
Resident of Joynagar, Dashamighat,
P.S. West Agartala,
District: West Tripura, 799 001

**---Accused person in
custody**

-Vs-

The State of Tripura

---Respondent

For Applicant(s)	:	Mr. Subrata Sarkar, Sr. Adv. Mr. Arpan Jamatia, Adv.
For Respondent(s)	:	Mr. Raju Datta, P.P.

HON'BLE MR. JUSTICE BISWAJIT PALIT

Order

21/07/2025

This bail application under Section 483 of BNSS is filed for granting bail to the accused in custody namely Mangaldip Biswas in connection with West Agartala P.S. Case No.2025 WAG 032 under Section 22(c)/25/29 of NDPS Act.

Heard Learned Senior Counsel Mr. S. Sarkar assisted by Mr. A. Jamatia, Learned Counsel appearing on behalf of the accused in custody and also heard Learned Addl. P.P. appearing for the State. Learned P.P. also produced the Case Diary as ordered earlier.

Learned Senior Counsel at this stage drawn the attention of the Court referring the contents of the FIR and submitted that the ground of arrest was not communicated to the accused. He further

submitted that the accused is a businessman of the concerned area of Battala market but that has not been reflected in the forwarding report of I.O. or in the FIR also and furthermore the name and status of the Gazetted Officer has not been mentioned in the forwarding report which shows clear violation of the provision of Section-57 of the NDPS Act. Furthermore in view of the judgment of the Hon'ble Supreme Court in **Prabir Purkayastha vs. State (NCT of Delhi dated May 15, 2024)** reported in **(2024) 8 SCC 254**, **Pankaj Bansal vs. Union of India and Ors.** reported in **2024 7 SCC 576** and **Vihaan Kumar vs. State of Haryana & Anr.** reported in **2025 SCC OnLine 269** he submitted that since the ground of arrest was not communicated for which the accused is required to be released on bail in any condition.

On the other hand, Learned P.P. strongly opposed the submission made by Learned Senior Counsel and submitted that in this case there was no clear violation of the provision of Section-42 and Section-57 of NDPS Act and furthermore the ground of arrest was duly communicated in writing to the accused supplying copy to him. He further submitted that after conducting pre-search memo seizure was made and notice was served, so there is no scope to release the accused on bail in any condition. Furthermore, the accused in custody is a habitual offender, against him there is another case and more so in the search memo and pre-search memo signature of the accused was obtained and the contraband items were directly seized from his possession. So there is no scope on the part of the accused in custody to take a plea that he had no knowledge or he was not

informed the ground of his arrest and finally urged for rejection of the bail application.

In this case the prosecution was set into motion on the basis of an FIR laid by one Manik Biswas, SI of Police on 04.04.2025 to O.C. West Agartala Police Station alleging inter alia that on 04.04.2025 on the basis of secret telephonic information that one Mangaldip Biswas was selling huge quantities of contraband narcotic drug to the other drug peddlers at Battala super market area. The matter was reduced into Battala TOP GDE No.14 dated 04.04.2025. The information was conveyed to O/C West Agartala P.S., S.D.P.O. Sadar and also SP, West Tripura over telephone as well as R/G. Thereafter he along with other staff along with NDPS kits, weight machine, seal, gala rushed to the P.O. to verify the information and chalked out plan to detain the person at about 2125 hours and accordingly he went to P.O. i.e. Battala Super Market and was waiting for some time and at about 2310 hours found him available in the said place. After that he along with staff managed to detain him and on being asked he admitted his name as Mangaldip Biswas. Thereafter as per direction of O/C, West Agartala P.S. Inspector L. Darlong came to the spot and then in presence of Gazetted Officer he issued notice to him under Section-50 of the NDPS Act and then arranged for their checking after preparing pre-search memo in presence of witnesses and then conducted search to his body after preparing search memo in presence of witnesses and in course of search recovered one transparent plastic spouse containing 2000 nos. pinkish colour approximately 200 gms and suspected to be YABA tablets which is collected from 10 nos of small black colour zip packet, one light green colour shop case containing one transparent plastic spouse

which filled with brown like coloured powder weighting approximately 11.97 grms suspected to be heroin, one black colour Nokia keypad phone, cash amount Rs.840/- and after conducting preliminary test of powder substances by drug detection kit. The preliminary test indicated the positive presence of Heroin in said powder like substance and YABA tablet. After that he seized the said recovered articles in presence of witnesses and took the accused to their custody and laid FIR. On the basis of the FIR the case was registered.

I have perused the CD very carefully. The investigation of the case is in progress. The accused is lodging in jail on and from 05.04.2025. From the CD it appears that the ground of arrest was duly communicated to the accused by supplying copy to him and furthermore on perusal of the statement of witnesses it appears that the contraband item was directly recovered from his possession and the signatures were taken on all the relevant papers. I have also gone through the citations referred by Learned Senior Counsel appearing for the accused-applicant. It appears to this Court that at this stage there is no scope to apply the principles of said citations in this case and since *prima facie* it appears to this Court that there was no violation from the side of the I.O. Moreso, the case is at the very initial stage and the seized item is of commercial quantity and there is also another case pending against the present accused in custody. So in view of the submissions made by Learned Counsels of both the sides I do not find any scope to presume the accused in custody to be innocent in view of the provision provided under Section-37 of the NDPS Act and it appears to this Court that there is no scope to consider the twins condition as mentioned in Section-37 of NDPS Act and

accordingly the bail application filed stands rejected. The accused is to remain in J/C as before.

Send down the record to the Learned Trial Court 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.

JUDGE



**MOUMITA
DATTA**

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MOUMITA DATTA
Date: 2025.07.22
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