

**HIGH COURT OF TRIPURA
AGARTALA**

W.P.(Crl) 6 of 2025

Sima Aktar on Behalf of Ikbal Hossain

---Petitioner(s)

Versus

The State of Tripura and Anr.

---Respondent(s)

For Petitioner(s)	:	Mr. Koomar Chakraborty, Advocate.
For Respondent(s)	:	Mr. Raju Datta, PP.
Date of hearing and date of judgment and order	:	20.08.2025
Whether fit for reporting	:	Yes.

**HON'BLE JUSTICE DR. T. AMARNATH GOUD
HON'BLE MR. JUSTICE BISWAJIT PALIT**

Judgment and Order (Oral)

Dr. T.Amarnath Goud, J

[1] This is petition under Article 226 of the Constitution of India, read with Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, for issuance of appropriate writ/direction/order and/or in the nature thereof, declaring arrest and custody of the accused person herein [made on 14.07.2025, in connection with FIR No.2025/SNM/061 dated 14.07.2025, registered in the Sonamura PS, Sepahijala Tripura, under Section 20(b)(ii)(C)/25/29 of the NDPS Act, 1985], as illegal, arbitrary, and violative of Articles 14, 21, and 22 (1) of the Constitution of India, due to non-supply of written grounds of arrest. The petitioner has sought for the following relief(s):

- (i) *Issue Rule, calling upon the Respondents and each one of them, to show cause as to why appropriate Writ/Direction/ Order and/or in the nature thereof, shall not be issued, declaring the arrest and custody of the Accused Person herein [made on 14.07.2025, in connection with FIR No. 2025/SNM/061 dated 14.07.2025 (Annexure-1 supra), registered in the Sonamura PS, Sepahijala Tripura, under Sections 20(b)(ii)(C)/25/29 of the NDPS Act, 1985], as illegal, arbitrary, and violative of Articles 14, 21, and 22(1) of the Constitution of India, due to non-supply of written grounds of arrest;*
- (ii) *Issue Rule, calling upon the Respondents and each one of them, to show cause as to why a Writ of Mandamus and/or in the nature thereof, shall not be issued, mandating/directing them to release the Accused Person herein from custody;*
- (iii) *Call for the records, appertaining to this Writ Petition;*
- (iv) *After hearing the parties, be pleased to make the Rule absolute in terms of (i) & (ii) above;*
- (v) *Costs of and incidental to this proceeding*
- (vi) *Any other Relief(s) as to this Hon'ble High Court (vi) may deem fit and proper*

[2] It is the case of the petitioner that on 14.07.2025, the husband of the petitioner (i.e., the accused person) was illegally arrested, without assigning any grounds of arrested, and an FIR No. 2025/SNM/061 was registered against him at Sonamura PS, under Sections 20(b)(ii)(C)/25/29 of the NDPS Act, 1985. On 15.07.2025, the accused person was forwarded before the Ld. In-Charge Special Judge (Chief Judicial Magistrate), Sepahijala Tripura, Sonamura, alongwith Arrest Memo (without any grounds of arrest). On 22.07.2025, the Bail Application, presented for and on behalf of the accused person was heard, wherein, his release was prayed for on the ground of non-communication of grounds of arrest, as mandated under Article 22(1) of the Constitution of India, and by various landmark Judgments passed by the Hon'ble Supreme Court of India, and also by this Court in WP(Crl.) No. 04 of 2025. But, on the very date, the Investigating Authority, most illegally, only to prevent the release of the accused person, made handwritten endorsement subsequently in the enclosure of the Forwarding Report dated 15.07.2025 as "along with ground of arrest", and also, subsequently manufactured the separate Ground of Arrest dated nil afterthought. On the basis of such purported communication of grounds of arrest, the said Bail Application was rejected by the Ld. Special Judge, Sepahijala Tripura, Sonamura on 22.07.2025. Hence, this Writ Petition has been presented, for enforcement of the fundamental rights of the accused person, as guaranteed under Articles 14, 21 & 22 of the Constitution of India.

[3] It is contended by learned counsel for the petitioner that the purported handwritten endorsement in the enclosure of the Forwarding Report dated 15.07.2025 as "along with ground of arrest", and also, the separate Ground of Arrest dated nil have been made afterthought and been subsequently manufactured. Only to evade the liability of non- furnishing of grounds of arrest and to ensure non-release of the Accused person on that ground, the Investigating Authority had intentionally inserted such fabricated and manufactured notations and documents in the case record afterthought on the very date of 22.07.2025, when the bail application was listed for hearing before the Ld. Special Judge, Sepahijala Tripura, Sonamura, which was thereupon rejected.

[4] It is further contended that at this juncture, the respondents cannot deny or dispute the said fact in view of the position that in the initial Order dated 15.07.2025 (Annexure-3 supra), i.e., the day, when the accused person was produced for the first time before the Court, the Ld. In-Charge Special Judge (i.e., the Chief Judicial Magistrate, Sepahijala Tripura, Sonamura) had very specifically and categorically recorded that "the Investigating Officer of the case

forwarded the accused person, under arrest, alongwith Forwarding Report, Arrest Memo, Medical Examination Report and prayer to grant 03 (three) day's police remand." It thus clearly reveals after being arrested on 14.07.2025, when the Accused person had been forwarded before the Ld. In-Charge Special Judge (i.e., the Chief Judicial Magistrate, Sepahijala Tripura, Sonamura), no separate Grounds of Arrest was in existence. Only ground of arrest, that was available on that very date was the Arrest Memo, which only noted "Above noted case". Had there been any separate Ground of Arrest on the very date of 15.07.2025, said to have been enclosed with the Arrest Memo (Annexure-2 supra), the same ought to have been recorded by the Ld. In-Charge Special Judge (i.e., the Chief Judicial Magistrate, Sepahijala Tripura, Sonamura), in the Order dated 15.07.2025.

[5] To support his case, learned counsel for the petitioner has relied on Para 31 of the judgment of the apex court in **Vihaan Kumar vs State of Haryana and Another** reported in **2025 SCC Online 269**, where the apex court has held as under:

31. The learned Single Judge, unfortunately, has equated information given regarding the appellant's arrest with the grounds of arrest. The observation that the allegation of non- supply of the grounds of arrest made by the appellant is a bald allegation is completely uncalled for. All courts, including the High Court, have a duty to uphold fundamental rights. Once a violation of a fundamental right under Article 22(1) was alleged, it was the duty of the High Court to go into the said contention and decide in one way or the other. When a violation of Article 22(1) is alleged with respect to grounds of arrest, there can be possible two contentions raised: (a) that the arrested person was not informed of the grounds of arrest, or (b) purported information of grounds of arrest does not contain any ground of arrest. As far as the first contention is concerned, the person who is arrested can discharge his burden by simply alleging that grounds of arrest were not informed to him. If such an allegation is made in the pleadings, the entire burden is on the arresting agency or the State to satisfy the court that effective compliance was made with the requirement of Article 22(1). Therefore, the view taken by the High Court is completely erroneous.

[6] For these reasons, the petitioner humbly prays that this Court be pleased to allow the present petition.

[7] On the contrary, Mr. Raju Datta, learned PP appearing for the state-respondent has contended before this court that in the instant case, dry ganja was recovered and duly seized from the house of the accused person. The recovery was effected in the presence of independent witnesses and seizure list was prepared in due compliance with law. Once such contraband substance is found in the possession and control of the accused, his connection with the commission of the offence under the NDPS Act stands prima facie established.

[8] In such circumstances, it is not required under law that the police should separately or formally inform the accused of the grounds of arrest in a

mechanical manner, because the very recovery of the contraband from his possession constitutes a clear and sufficient ground. It is deemed understood that where contraband articles like dry ganja are seized from the conscious possession of an individual, the police are empowered to arrest him forthwith. Hence, the arrest of the accused cannot be said to be illegal or arbitrary and requirements of Article 22 (1) of Constitution of India is followed and the arrest is squarely justified by the recovery itself and prayed to dismiss the petition.

[9] The arrest of the accused was conducted in full compliance with the constitutional mandate of Article 22(1) of the Constitution of India. The purpose of informing an arrested person of the grounds of their arrest, as per Article 22(1), is to enable them to understand why they have been taken into custody. This is not a mere formality but a substantive right that allows the individual to seek legal remedies, such as applying for bail or filing a writ of habeas corpus, and to prepare for their defense. We have fulfilled this obligation by providing information that was sufficient for the accused to comprehend the reason for their arrest.

[9.1] For ready reference, Article 14, 21 & 22(1) of the Constitution of India is extracted herein below:

14. Equality before law

The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.

21. Protection of life and personal liberty

No person shall be deprived of his life or personal liberty except according to procedure established by law.

22. Protection against arrest and detention in certain cases.—(1) No person who is arrested shall be detained in custody without being informed, as soon as may be, of the grounds for such arrest nor shall he be denied the right to consult, and to be defended by, a legal practitioner of his choice.

[10] The law does not require the authorities to provide an exhaustive or overly detailed account of the offense. As established in *Vihaan Kumar* (supra), the information provided must be sufficient to allow the arrested person to understand the "why" behind their arrest. The grounds communicated should be akin to the essence of a charge sheet, providing enough detail for the individual to grasp the nature of the allegations against them, but not necessarily the entire evidentiary record. The information provided to the accused in the present case met this standard. The accused was adequately informed of the nature of the alleged offense, allowing them to take the necessary legal steps. We have therefore fulfilled our constitutional obligation.

[11] The apex court in **Kasireddy Upender Reddy vs State of Andhra Pradesh and Others** reported in **2025 SCC Online SC 1228**, has observed in the following manner:

27. The object underlying the provision that the grounds of arrest should be communicated to the person arrested has been very succinctly explained in Vihaan Kumar (supra). On learning about the grounds for arrest, the person concerned will be in a position to make an application before the appropriate Court for bail, or move the High Court for a writ of habeas corpus. Further, the information will enable the arrested person to prepare his defence in time for the purposes of his trial. For these reasons, it has been provided by the Constitution that, the ground for the arrest must be communicated to the person arrested as soon as possible.

28. For the purposes of Clause (1) of Article 22, it is not necessary for the authorities to furnish full details of the offence. However, the information should be sufficient to enable the arrested person to understand why he has been arrested. The grounds to be communicated to the arrested person should be somewhat similar to the charge framed by the Court for the trial of a case.

[12] As seen from the record, it stands established on record that dry ganja was recovered and duly seized from the house of the accused person. The seizure was effected in the presence of independent witnesses and a seizure list was prepared in compliance with law. Such recovery from the conscious possession and control of the accused is sufficient to prima facie establish his knowledge of the offence under the NDPS Act. The details of the seized contraband is as under:

1. One blue colour plastic drum containing 44(forty four) Kg suspected to be dry ganja (including plastic drum).
2. One blue colour plastic drum containing 48(forty eight) Kg suspected to be dry ganja (including plastic drum).
3. One blue colour plastic drum containing 34(thirty four)Kg suspected to be dry ganja (including plastic drum).
4. One blue colour plastic drum containing 44(forty four) Kg suspected to be dry ganja (including plastic drum).
5. One blue colour plastic drum containing 47(forty seven) Kg suspected to be dry ganja (including plastic drum).
6. One blue colour plastic drum containing 41 (forty one) Kg suspected to be dry ganja (including plastic drum).
7. One blue colour plastic drum containing 39(thirty nine) Kg suspected to be dry ganja (including plastic drum).
8. One blue colour plastic drum containing 48(forty eight) Kg suspected to be dry ganja (including plastic drum).

[13] In these circumstances, the contention of the accused that he was not duly informed of the grounds of his arrest cannot be sustained. The very recovery of contraband from the possession of the accused constitutes a clear and sufficient ground for his arrest. It is deemed understood that where contraband articles like dry ganja are seized from an individual's conscious possession, the

police are well empowered to arrest such person forthwith. The arrest of the accused, therefore, cannot be said to be either illegal or arbitrary. To deal with the case, it is apposite to extract herein below Sections 42, 43 and 51 of NDPS Act, 1985.

42. Power of entry, search, seizure and arrest without warrant or authorisation.—

(1) Any such officer (being an officer superior in rank to a peon, sepoy or constable) of the departments of central excise, narcotics, customs, revenue intelligence or any other department of the Central Government including paramilitary forces or armed forces as is empowered in this behalf by general or special order by the Central Government, or any such officer (being an officer superior in rank to a peon, sepoy or constable) of the revenue, drugs control, excise, police or any other department of a State Government as is empowered in this behalf by general or special order of the State Government, if he has reason to believe from persons knowledge or information given by any person and taken down in writing that any narcotic drug, or psychotropic substance, or controlled substance in respect of which an offence punishable under this Act has been committed or any document or other article which may furnish evidence of the commission of such offence or any illegally acquired property or any document or other article which may furnish evidence of holding any illegally acquired property which is liable for seizure or freezing or forfeiture under Chapter VA of this Act is kept or concealed in any building, conveyance or enclosed place, may between sunrise and sunset,--

(a) enter into and search any such building, conveyance or place;

(b) in case of resistance, break open any door and remove any obstacle to such entry;

(c) seize such drug or substance and all materials used in the manufacture thereof and any other article and any animal or conveyance which he has reason to believe to be liable to confiscation under this Act and any document or other article which he has reason to believe may furnish evidence of the commission of any offence punishable under this Act or furnish evidence of holding any illegally acquired property which is liable for seizure or freezing or forfeiture under Chapter VA of this Act; and

(d) detain and search, and, if he thinks proper, arrest any person whom he has reason to believe to have committed any offence punishable under this Act:

Provided that in respect of holder of a licence for manufacture of manufactured drugs or psychotropic substances or controlled substances granted under this Act or any rule or order made thereunder, such power shall be exercised by an officer not below the rank of sub-inspector:

Provided further that if such officer has reason to believe that a search warrant or authorisation cannot be obtained without affording opportunity for the concealment of evidence or facility for the escape of an offender, he may enter and search such building, conveyance or enclosed place at any time between sunset and sunrise after recording the grounds of his belief.

(2) Where an officer takes down any information in writing under sub-section (1) or records grounds for his belief under the proviso thereto, he shall within seventy-two hours send a copy thereof to his immediate official superior.

43. Power of seizure and arrest in public place.—

Any officer of any of the departments mentioned in section 42 may —

(a) seize in any public place or in transit, any narcotic drug or psychotropic substance or controlled substance in respect of which he has reason to believe an offence punishable under this Act has been committed, and, along with such drug or substance, any animal or conveyance or article liable to confiscation under this Act, any document or other article which he has reason to believe may furnish evidence of the commission of an offence punishable under this Act or any document or other article which may furnish evidence of holding any illegally acquired property which is liable for seizure or freezing or forfeiture under Chapter VA of this Act;

(b) detain and search any person whom he has reason to believe to have committed an offence punishable under this Act, and if such person has any narcotic drug or psychotropic substance or controlled substance in his possession and such possession appears to him to be unlawful, arrest him and any other person in his company.

51. Provisions of the Code of Criminal Procedure, 1973 to apply to warrants, arrests, searches and seizures.—

The provisions of the Code of Criminal Procedure, 1973 (2 of 1974) shall apply, in so far as they are not inconsistent with the provisions of this Act, to all warrants issued and arrests, searches and seizures made under this Act.

[14] Further, this Court also finds substance in the argument that the constitutional mandate under Article 22(1) has been complied with. The object behind informing the accused of the grounds of arrest is not to furnish him with exhaustive details of the offence, but to enable him to comprehend the reason behind his arrest so that he may avail appropriate legal remedies.

[15] In this regard, in *Kasireddy Upender Reddy* (supra), the Hon'ble Supreme Court reiterated that while the Constitution requires communication of the grounds of arrest, it is not necessary for the authorities to furnish full details of the offence at the stage of arrest. What is required is sufficient information to enable the arrested person to understand why he has been taken into custody, akin in nature to a charge framed at trial, though not containing the entire evidentiary record.

[16] As regards the judgment relied upon by the learned counsel for the petitioner, wherein it was observed that once a violation of Article 22(1) is alleged, the burden shifts upon the State to show effective compliance, this Court is of the view that the said authority is not applicable to the facts of the present case. That judgment dealt with a situation where the very communication of the grounds of arrest was in dispute. In the present matter, however, the grounds of arrest were sufficiently conveyed, and more importantly, the recovery of contraband dry ganja from the house of the accused in his presence itself constituted a clear and tangible ground for his arrest. Thus, the ratio laid down in the said case does not advance the cause of the petitioner and cannot be relied upon by this Court.

[17] In so far as the contention of the learned counsel for the petitioner, with regard to the allegation that the officers had manually written the memo of arrest to advance the petitioner's cause, is concerned, this Court finds that such an argument is an afterthought. The memo of arrest was originally filed without the grounds of arrest being enclosed with the case record. This line of argument raises factual issues which cannot be examined or adjudicated at the stage of a writ petition; rather, it is a matter to be determined during trial. Prima facie, this Court is convinced that there is no violation warranting the exercise of its jurisdiction to grant the reliefs prayed for.

[18] Applying the aforesaid principles to the facts of the present case, this Court is satisfied that the accused was adequately informed of the reason for his arrest, i.e., possession of contraband substance, which by itself constituted a sufficient ground. The arrest, therefore, is not vitiated by any illegality or infirmity.

[19] Accordingly, the contention raised on behalf of the accused-petitioner is devoid of merit and is not entitled to the relief as sought for. The petition is liable to be dismissed.

[20] Accordingly, the petition stands dismissed. As a sequel, stay, if any, stands vacated. Pending application(s), if any, also stands closed.

B.Palit, J

Dr. T. Amarnath Goud, J

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