

**HIGH COURT OF TRIPURA
AGARTALA
Crl.P. No.44 of 2025**

Soumendra Pal, aged about 22 years,
Son of Sri Raghavendra Pal,
Resident of Barra, P.S.-Barra,
District- Kanpur, Uttar Pradesh, India.

.....Petitioner(s)

Versus

The State of Tripura.

.....Respondent(s)

For Appellant(s)	:	Mr. Sankar Lodh, Adv.
For Respondent(s)	:	Mr. Rajib Saha, Addl. P.P.
Date of Hearing & Judgment and Order	:	04.12.2025
Whether fit for Reporting	:	NO

HON'BLE MR. JUSTICE BISWAJIT PALIT

Judgment & Order(Oral)

This petition under Section 528 of BNSS is filed for setting aside/quashing the order dated 25.07.2025 passed by Learned Sessions Judge, West Tripura, Agartala in connection with case No.S.T.(T-1) 62 of 2025.

02. Heard Learned Counsel, Mr. S. Lodh appearing on behalf of the petitioner and also heard Learned Additional P.P., Mr. R. Saha appearing on behalf of the State-respondent.

03. Taking part in the hearing, Learned Counsel, Mr. S. Lodh appearing on behalf of the petitioner drawn the attention of the Court that on the basis of one *suo moto*

complaint laid by one WASI, Kana Datta, Agartala, GRPS, case No.42 of 2025 under Sections 61(2)/249(B)/143(3) of BNS added with Section 14(A)/14(C) of Foreigners Act and Section 03 of IPP Act was registered against the present petitioner-accused and others and in course of investigation the I.O. vide seizure list dated 16.04.2025 seized items of serial Nos.4, 5, 6 & 7 as mentioned below from the possession of the petitioner-accused which are as follows:

(4) One Green colour I mobile phone which is IMEI No.(i)356685119153219 (ii)356685118940491 and Sim No.7525050352

(5) Indian Currency Rs.25,500/- (Twenty Five thousand Five hundred) only

(6) One Golden colour Necklace weighing approx 19 gram including cotton rope.

(7) Total 4 nos. of golden colour Bangles weighing Total approx 44 gram including (sas) or bronge items entangled inside it.

Further it is submitted that on conclusion of investigation charge-sheet is submitted against the petitioner-accused and others and now the case is pending for disposal before the Sessions Court on commitment. It was further submitted by Learned Counsel, Mr. S. Lodh that in course of investigation, on the prayer of the petitioner-accused, a report was sought for from O/C, GRPS when O/C, GRPS on 30.06.2025 submitted a report to the Learned Court of Jurisdictional Magistrate that in course of investigation, the owner of the seized alamats could not be ascertained which was seized from the possession of Somendra Paul, i.e. the petitioner and the ornaments are not required for further investigation and accordingly, before the

Court of Learned Sessions Judge the petitioner-accused filed one petition on 25.07.2025 for releasing the seized alamats which were seized from the possession of the petitioner-accused. But the Learned Trial Court owing to the pendency of the case till completion of trial, refused to allow the prayer and thus, rejected the petition filed by the petitioner-accused and accordingly, challenging that order the petitioner has preferred this petition. Learned Counsel further submitted that since the petitioner is the owner of the seized ornaments and other alamats as per seizure list and since during investigation, it was specifically stated by I.O. that the same was not required for the sake of investigation and since, it is not a case that the same requires to be produced before the Court for marking as exhibits, so, the Learned Trial Court could easily hand over the articles to the petitioner-accused without waiting for the conclusion of trial. So, Learned Counsel finally urged for allowing this petition. In support of his contention, Learned Counsel, Mr. Lodh relied upon one citation reported in **(2002) 10 SCC 283** wherein in para Nos.3, 7, 11 and 21, Hon'ble the Apex Court observed as under:

"3. At the time of the hearing of these matters, learned counsel for the parties submitted that various articles are kept at the police station for a long period by not adhering to the procedure prescribed under CrPC, which creates difficulties for keeping them in safe custody. Finally, the sufferers are — either the State exchequer or the citizens whose articles are kept in such custody. It is submitted that speedier procedure is required to be evolved either by the court or under the rules for disposal of mudammal articles which are kept at various police stations as most of the police stations are flooded with seized articles. It is, therefore, submitted that directions be given so that burden of the courts as well

as at the police stations can, to some extent, be reduced and that there may not be any scope for misappropriation or of replacement of valuable articles by spurious articles.

7. In our view, the powers under Section 451 CrPC should be exercised expeditiously and judiciously. It would serve various purposes, namely: 1. owner of the article would not suffer because of its remaining unused or by its misappropriation; 2. court or the police would not be required to keep the article in safe custody; 3. if the proper panchnama before handing over possession of the article is prepared, that can be used in evidence instead of its production before the court during the trial. If necessary, evidence could also be recorded describing the nature of the property in detail; and 4, this jurisdiction of the court to record evidence should be exercised promptly so that there may not be further chance of tampering with the articles.

11. With regard to valuable articles, such as, golden or silver ornaments or articles studded with precious stones, it is submitted that it is of no use to keep such articles in police custody for years till the trial is over. In our view, this submission requires to be accepted. In such cases, the Magistrate should pass appropriate orders as contemplated under Section 451 CrPC at the earliest.

12. For this purpose, if material on record indicates that such articles belong to the complainant at whose house theft, robbery or dacoity has taken place, then seized articles be handed over to the complainant after:

- (1) preparing detailed proper panchnama of such articles;
- (2) taking photographs of such articles and a bond that such articles would be produced if required at the time of trial; and
- (3) after taking proper security.

21. However, these powers are to be exercised by the Magistrate concerned. We hope and trust that the Magistrate concerned would take immediate action for seeing that powers under Section 451 CrPC are properly and promptly exercised and articles are not kept for a long time at the police station, in any case, for not more than fifteen days to one month. This object can also be achieved if there is proper supervision by the Registry of the High Court concerned in seeing that the rules framed by the High Court with regard to such articles are implemented properly."

Referring the same, Learned Counsel, Mr. Lodh submitted that in view of the observation made by the Hon'ble Apex Court the order passed by Learned Sessions Judge needs to be interfered with and a direction be given to

release the seized alamats which were seized from the possession of the petitioner-accused. Because no purpose would be served by keeping those alamats in malkhana.

04. On the other hand, Learned Addl. P.P., Mr. Saha appearing on behalf of the State-respondent submitted one report laid by I.O. wherein it is written that on completion of investigation charge-sheet is submitted and the seized alamats were seized from the possession of accused-petitioner Somendra Paul which has been submitted to the Learned Court through challan. It was further submitted that for the sake of trial the alamats need to be kept in custody.

05. I have heard both the sides at length and perused the relevant prosecution papers including the case diary and also the order dated 25.07.2025 passed by Learned Sessions Judge, West Tripura, Agartala. It is the case of the prosecution is that on 16.04.2025 at about 1415 hours, the informant received one secret information that some Bangladeshi Nationals were moving around at the entrance gate of Agartala Railway Station for leaving outside Tripura. Accordingly, a raid was conducted and in course of raid four persons were detained, namely, (1)Md. Mehedi Hasan, Bangladesh, (2)Ikbal Hossen, Tripura, (3)Riaj Hossain, Tripura, (4) Somendra Paul, Kanpur, UP and in course of interrogation, it appeared that accused, Mehedi Hasan entered India with the help of one Ikbal Hossen and others

and Somendra Paul came to Tripura for the purpose of escorting that Bangladeshi National to outside State. The case was registered and in course of search and seizure, the aforesaid alamats were recovered from the possession of Somendra Paul. The case is pending for trial before the Learned Trial Court. As already stated the I.O. on completion of investigation has laid charge-sheet under Section 61(2) of BNS and 14(A) of the Foreigners Act read with Section 3 of IPP Act against Mehedi Hasan and under Section 61(2)/249(B)/143(3) of BNS and Section 14(C) of the Foreigners Act against Ikbal Hossen and Riaj Hossain and the petitioner Somendra Paul.

Admittedly, this is not a case of theft. It is also not the case of the prosecution that the aforesaid alamats which were recovered from the possession of Somendra Paul were stolen property and in course of investigation, the I.O. could not find out any other owner save and except Somendra Paul from whose possession the alamats were recovered and seized. The I.O. also in course of investigation specifically submitted a report to the Court that those alamats were not required for the sake of investigation of the case. So, in my considered view the observation of Learned Trial Court in this regard was not proper. Learned Sessions Judge till conclusion of trial of the case, did not agree to hand over the items to the petitioner-accused. I have also

gone through the citation of the Hon'ble Supreme Court as referred by Learned Counsel for the petitioner-accused. Since this is not a case of theft and since there is no evidence on record that the seized alamats which has been claimed by the petitioner is stolen property or some other person is the owner of the same, so, I do not find any scope to detain the seized alamats in malkhana for the sake of trial of the case. So, in view of the aforesaid observation of the Hon'ble Supreme Court of India, it appears to the Court that pending trial of the case, the seized alamats be released infavour of the petitioner-accused with certain terms and condition.

06. In the result, the petition filed by the petitioner-accused is hereby allowed. The order dated 25.07.2025 passed by Learned Sessions Judge, West Tripura, Agartala regarding rejection of the application for releasing of the seized alamats to the petitioner-accused is interfered with and modified to the extent that till conclusion of trial the seized alamats as aforesaid be released in favour of the petitioner-accused on bail by Learned CJM, West Tripura, Agartala of his execution of an indemnity bond of Rs.5,00,000/- to the satisfaction of Learned CJM, West Tripura, Agartala on condition that the petitioner-accused shall produce the seized alamats as indicated above before the Learned Trial Court, if so requires during trial and in case of default, he shall be bound to deposit the amount of bond

before the Learned Trial Court. However, before releasing the seized alamats as aforesaid in favour of the petitioner, Learned CJM, West Tripura, Agartala shall (1) Prepare detailed proper panchanama of the seized articles and (2) shall take photographs of such articles, so that in case of need the same can be produced before the Court for marking of exhibits.

On receipt of bond and also after conducting the proper panchanama and taking of photographs, Learned CJM shall issue necessary instructions to the in-charge of malkhana for releasing the aforesaid seized alamats in favour of the petitioner. Learned Sessions Judge, West Tripura, Agartala shall forward the entire case record to the Court of Learned CJM, West Tripura, Agartala within a period of seven(7) days from the date of receipt of the copy of this order and Learned CJM thereafter, shall complete the next process within a further period of seven(7) days and after that return back the record to the Court of Learned Sessions Judge again with the copies of indemnity bond, panchanama and copies of photographs for further proceeding by Learned Sessions Judge during trial. The petitioner shall accordingly approach to the Court of Learned CJM, West Tripura, Agartala after receipt of a copy of this order.

Send a copy of this order be accordingly communicated to Learned Sessions Judge, West Tripura, Agartala for information and compliance. Also a copy of this

order be communicated to Learned CJM, West Tripura, Agartala for information and compliance. Further, a copy of this order be furnished to Learned Counsel for the petitioner for information and compliance.

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

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

With this observation, this petition is disposed of.

JUDGE



**MOUMITA
DATTA**

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