

**HIGH COURT OF TRIPURA
AGARTALA
BA No.98 of 2025**

Smt. Anita Pal,
W/O- Sri Dhananjoy Pal,
Chhinaihani, Shanitala,
P.S.- Airport, District- West Tripura
**---Petitioner on behalf of Accused
Person-In-Custody**

Sri Dipankar Pal (54),
S/O-Sri Dhananjoy Pal
Both being resident of:
Chhinaihani, Shanitala,
P.S.- Airport, District-West Tripura
---Accused Petitioner-In-Custody

-Vs-

The State of Tripura
---Respondent

For Applicant(s)	:	Mr. Samrat Ghosh, Adv.
For Respondent(s)	:	Mr. Raju Datta, P.P.

HON'BLE MR. JUSTICE BISWAJIT PALIT

Order

28/10/2025

This bail application under Section 483 of BNSS, 2023 is filed for granting bail to the accused namely Shri Dipankar Pal who is lodging in jail in connection with Airport P.S. Case No.079/2024 under Section 21(c)/20(B)/25/29 of the NDPS Act corresponding to Special NDPS 43/2025.

Heard Learned Counsel, Mr. Samrat Ghosh appearing on behalf of the accused-in-custody and also heard Learned P.P., Mr. R. Datta appearing on behalf of the State-respondent.

At the time of hearing, Learned Counsel for the accused first of all drawn the attention of the Court referring the contents of the FIR and submitted that in this case contraband items of intermediate quantity was seized from the possession of the accused and the accused is lodging in jail on and from

30.09.2024. It was also submitted that by this time another accused Shri Samrat Barman alias Sonai has been released on bail on the issue of 'ground of arrest'. But no bail application was moved by this present accused-in-custody. However, considering the period of detention of the accused-in-custody and furthermore no 'ground of arrest' was communicated to the accused at the time of his arrest. So, Learned Counsel urged for releasing the accused on bail in any condition.

On the contrary Learned P.P., Mr. R. Datta appearing on behalf of the State-respondent strongly opposed the bail application and submitted that the present accused-in-custody was produced under arrest before the Learned Trial Court on 28.09.2024 along with another and since then he is lodging in jail.

It was further submitted by Learned P.P. that from the contents of the FIR it will be clear that the contraband items of commercial quantity was recovered from the possession of the accused person. Furthermore, the I/O at the time of registration of the case has registered the case under Section 21(c)/20(B)/25/29 of the NDPS Act for having possession of contraband items of commercial quantity and furthermore the accused was duly represented by his lawyer from the time of his production before the Learned Trial Court and such plea was never raised earlier. Moreover, the contraband item was directly seized from the possession of the present accused person and as such in view of the law laid down by the Hon'ble Apex Court in ***State of Karnataka Vs. Sri Darshan Etc.*** reported in ***2025 SCC OnLine SC 1702*** in Para No.20.1.7 on the basis of on the plea of 'ground

of arrest' there is no scope to consider bail application of the present accused-in-custody. For the sake of convenience, the relevant paragraph is mentioned here in below:-

"20.1.7. In the present case, the arrest memos and remand records clearly reflect that the respondents were aware of the reasons for their arrest. They were legally represented from the outset and applied for bail shortly after arrest, evidencing an immediate and informed understanding of the accusations. No material has been placed on record to establish that any prejudice was caused due to the alleged procedural lapse. In the absence of demonstrable prejudice, such as irregularity is, at best, a curable defect and cannot, by itself, warrant release on bail. As reiterated above, the High Court treated it as a determinative factor while overlooking the gravity of the charge under Section 302 IPC and the existence of a *prima facie* case. Its reliance on *Pankaj Bansal and Prabir Purkayastha* is misplaced, as those decisions turned on materially different facts and statutory contexts. The approach adopted here is inconsistent with the settled principle that procedural lapses in furnishing grounds of arrest, absent prejudice, do not *ipso facto* render custody illegal or entitle the accused to bail."

It was further submitted by Learned P.P. that the case is now posted for recording evidence of prosecution witnesses w.e.f. 09.12.2025 to 15.12.2025. So, Learned P.P. urged for dismissal of the bail application with a direction to the Learned Trial Court to dispose of the case giving top priority on the ground that the accused is lodging in jail.

Considered.

I have heard both the sides at length.

In this case prosecution was set into motion on the basis of an FIR laid by one Srikanta Guha of Airport P.S. on 27.09.2024 to O/C Airport P.S. alleging *inter alia* on 27.09.2024 at about 1930 hrs a credible information was received by O/C Airport P.S. from his engaged source that a consignment of contraband goods would deliver to one Sentu Das of Narayanpur near market. Accordingly the fact was reduced into writing and entered in GD vide Airport

PS GDE No.31 for record and reference and the matter was informed to SDPO(NCC) as well as by sending RG with a request to remain present at Narayanpur near market and the O/C PS directed him to rush towards the PO and to take necessary action. Accordingly, the informant rushed to the PO and found that in front of the house of one Sentu Das the car arrived and the present accused persons got down from the vehicle with a sack in their hand and entered in the house of Sentu Das. At the time of entering into the house of Sentu Das they detained the present accused and another but as they tried to escape, however, they were detained by the police personnel and seeing the police party the driver of the car along with the car managed to escape from the spot and the house owner also managed to escape. By this time, SDPO(NCC) arrived to the PO. On arrival to the PO the informant obtained authorization from SDPO(NCC) to conduct search of the house premises and issued notice under Section 50 of NDPS Act to the accused persons in presence of witnesses and before search they have offered themselves for personal search preparing pre-search memo in presence of witnesses which was declined by them. In the presence of witnesses and SDPO(NCC) they opened the sack which was in possession of the accused persons and found 6 nos. packets containing suspected to be dry Ganja and one packet containing 17 nos. Eskuf cough syrup. After weighting the total weight of the Ganja was found 11.6 kg. and the packet containing 17 nos. Eskuf cough syrup and after that those were seized and the present accused and another were arrested and the FIR was laid by the informant. This is the sum

and substance of the prosecution case. Accordingly the case was registered and in course of investigation this present accused and another produced before the Court on 28.09.2024 and by this time one of the accused was released on bail and the present accused is still lodging in custody.

I have also perused the judgment of the Hon'ble Supreme Court of India. The accused all along represented by his counsel. The seized contraband item was directly recovered from the possession of this present accused and another and the same was seized from their possession after observing all formalities and it also appears that the ground of arrest was informed to the family members of the accused. So, in view of the observation made by the Hon'ble Apex Court in the aforementioned case on the basis of ground of arrest at this stage there is no scope to grant bail to the accused. However, since the contraband items of commercial quantity was seized from the possession of the accused and I/O laid charge-sheet against both the accused persons showing possession of contraband items of commercial quantity and the case is now posted for recording evidence on the prosecution witnesses. So considering the materials on record at this stage I find no scope to release the accused on bail. Hence, this bail application filed by the applicant is rejected. The accused is to remain in J/C as before.

However, it is ordered that since the accused is lodging in custody, so Learned Trial Court shall make all endeavour to dispose of the case giving top priority, so that the right of the accused is not curtailed.

With this observation this present bail application stands disposed of.

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 P.P. along with a copy of this order.

JUDGE



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