



Serial Nos. 01 & 02
Supplementary List

HIGH COURT OF MEGHALAYA
AT SHILLONG

BA No. 10 of 2025 with
BA No. 11 of 2025

Date of Decision: 04.03.2025

Shri. Manoranjan Modak, aged about 52 years,
 S/o Late Mahendra Modak,
 Village-Goglapara,
 P.S: Basugaon, Dist.-Chirang, BTR, Assam.

.....Petitioner

- Vs-

The State of Meghalaya, represented by the
 Commissioner & Secretary Home Police Department
 Government of Meghalaya.

.....Respondent

Coram:

Hon'ble Mr. Justice W. Diengdoh, Judge

Appearance:

For the Petitioner/Appellant(s) : Ms. M. Rahman, Adv.

For the Respondent(s) : Mr. R. Gurung, GA

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| i) | Whether approved for reporting in Law journals etc.: | Yes/No |
| ii) | Whether approved for publication in press: | Yes/No |

COMMON JUDGMENT & ORDER (ORAL)

1. These two petitions have been filed with a prayer for grant of bail on behalf of the accused persons namely, Shri. Tutan Sarkar and Shri.



Sujit Sarkar who are involved in a case registered as Khliehriat P.S. Case No. 47(06)2023 under Section 279/307/353/427 IPC read with Section 20(b)(ii)(c)/29 NDPS Act, 1985.

2. Ms. M. Rahman, learned counsel for the petitioners has submitted that the accused persons in question were occupants of a vehicle bearing Registration No. TR 01BW 0231 which was driven by the accused person, Tutan Sarkar. It is also submitted that on 19.06.2023 one vehicle bearing Registration No. TR 01BT 0265 driven by one Joyel Das which was intercepted during Naka checking at Nongsnging near BMS Fuel Station, East Jaintia Hills District wherein the police personnel on conducting a search of the vehicle had discovered a large quantity of alleged contraband substance. Accordingly, the occupants of the said vehicle were all arrested and booked under the relevant provisions of the NDPS Act.

3. During investigation, an examination of the said occupants of the vehicle, it was the statement of the accused person, Joyel Das that the contraband substance belonged to one Shri. Karnajit Sarkar who was the occupant of the vehicle driven by the said accused person, Tutun Sarkar. Accordingly, on such complicity being linked, the occupants of the vehicle bearing No. TR 01BW 0231 were arrested in connection with the case.

4. In course of investigation, the Investigating Officer (IO) had noted the statement of several witnesses including the accused persons. Such statements being recorded under Section 161 Cr.P.C and eventually on finding a prima facie case well established against such accused person, the IO had put up the matter for a proper trial before the competent court of jurisdiction wherein the case is now registered as Special (NDPS) Case No.



25 of 2023 to be tried by the learned Special Judge (NDPS) at Khliehriat, East Jaintia Hills District.

5. The learned counsel for the petitioners has however submitted that the accused persons whom she is representing, are not at all involved in the case inasmuch as the alleged contraband substance was not seized from the vehicle that they were travelling but they were implicated by Joyel Das and others, without any proof of their involvement in the case.

6. The accused person having been incarcerated in custody for about one year and five months, it is therefore prayed that the prayer made for grant of bail may be allowed with any conditions to be imposed by this Court.

7. Per contra, Mr. R. Gurung, learned GA appearing for the State has strongly opposed the prayer made and has led this Court to the petition itself, particularly at page 26 of the same wherein is found the statement of Shri. Joyel Das who had clearly given the details of how the incident had taken place and that the said contraband was indeed discovered from the vehicle he was driven. Further, Joyel Das had also stated that the said contraband substance belongs to one Karnajit Sarkar who was proceeding in the other vehicle, that is, TR 01BW 0231 along with the accused persons named herein. Therefore, under such circumstances, there is no doubt that the accused persons in question are involved in the case.

8. In fact, from the statements of the abovementioned two accused persons recorded under Section 161 Cr.P.C, the same have been stated and admitted by them to the extent that they have not denied that there exist the contraband which was stored in the vehicle driven by Joyel Das and that



the same belongs to Karnajit Sarkar who had offered the accused persons money to accompany him.

9. The learned GA has submitted that under such circumstances the prayer of the petitioners may not be allowed and the trial may be allowed to be carried out in this regard.

10. This Court has given thoughtful consideration of the submission made. Firstly, it is not denied by the parties that the alleged illegal contraband substance was indeed seized from the said vehicle no. TR 01BT 0265. The fact that the two named accused herein are occupants of the other vehicle was also not denied by them, though it is claimed that they have no knowledge or rather no involvement as far as the matter concerning the illegal contraband substance is concerned. Their link to the alleged owner of the said contraband substance and the proximity of the two vehicles when the same was intercepted at the said Naka Check Post is also borne out by records.

11. It is also evident that the case was registered under the relevant provision of the NDPS Act including Section 20(b)(ii)(B) which speaks of seizure of alleged contraband substance of commercial quantity. This leads this Court to another aspect of the matter, that is, the provision of Section 37 of the NDPS Act, 1985 wherein it is stipulated that in any case concerning seizure of commercial quantity of contraband substance, when bail is to be considered, the same may not be allowed unless, firstly, the public prosecutor is given notice of the hearing of such application for bail and secondly, if the court is of the opinion that the accused person in question is innocent.



12. As indicated above, prima facie, this Court is not convinced that the accused persons in question are innocent, prima facie, and thus being hit by the provision of Section 37 wherein grant of bail is generally taken in the negative sense rather than the positive, therefore under such circumstances this Court is not inclined to allow the prayer made in these petitions.

13. Petitions dismissed as devoid of merits and the same are disposed of accordingly.

Judge