



Serial No. 03
Supplementary List

HIGH COURT OF MEGHALAYA
AT SHILLONG

BA No. 43 of 2025

Date of Decision: 11.09.2025

Shri. Thokchom Naba Singh,
 Aged about 53 years,
 S/o (L) Thokchom Lalchand Singh,
 R/o- Vill- Kangmong, Imphal West,
 Manipur- 795134.

.....Petitioner

-Versus-

1. The State of Meghalaya
 Represented by Secretary (Home)
 Government of Meghalaya.
2. The Superintendent of Police,
 Ri-Bhoi District, Meghalaya.

.....Respondents

Coram:

Hon'ble Mr. Justice W. Diengdoh, Judge

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

Appearance:

For the Petitioner/Appellant(s) : Mr. S.S. Yadav, Adv.
 Mr. S. Purkayastha, Adv.

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



ORDER (ORAL)

1. Heard Mr. S. S. Yadav, learned counsel for the petitioner who has submitted that this application has been filed under Section 483, VNSS with a prayer for a grant of bail to the petitioner who was arrested on 01. 07. 2023 in connection with Umsning PS, Case No. 21(7) of 2023 under Section 21(c) and 29 of the NDPS Act.

2. It is the submission of the learned counsel that the investigation has since been completed and the Investigating Officer has since filed the chargesheet No. 6 of 2023 on 14. 12. 2023 with the opinion that a prima facie case is well made out against the petitioner/accused under the relevant section of law for which he is made to stand trial. Accordingly, the case was taken cognisance of by the learned Special Judge (NDPS) Ri-Bhoi district, Nongpoh and CrI. (NDPS) case No. 23 of 2023 has been registered.

3. In due course, charges were framed under Section 21(c) and 29 of the NDPS Act against the petitioner and two other persons. The case is pending trial at the stage of recording of evidence of the prosecution witnesses, wherein, three witnesses have been examined and discharged accordingly.

4. The learned counsel has also submitted that the petitioner was accused of being involved in a case concerning seizure of alleged contraband substance more particularly heroine, for which he along with the co-accused person were said to be involved in the possession and transportation of the said illegal contraband. However, from the evidence of the witnesses examined by the trial court two of the witnesses were said to be those who have witnessed the police in the process of seizure of the said contraband



substance, where on investigation it was found that the petitioner herein was involved in the said transaction. The fact is that none of the witnesses examined so far has been able to even remotely connect the involvement of the petitioner with the said seizure as such he is innocent and has been falsely implicated in the case.

5. On the ground of parity, learned counsel has submitted that two of the co-accused persons have by separate application approached this court for grant of bail which was accordingly allowed by this Court. In support of his contention, the learned counsel has referred to the case of Mohd. Muslim @ Hussain v. State (NCT of Delhi) reported in AIR 2023 SC 1648-para 18 and 19, and also case of P Krishna Mohan Reddy v. The State of Andhra Pradesh reported in 2025 INSC 725 decided on 16. 05. 2025- para 50, 53 (iv) (v) and (vii) and the case of Ayub Khan v. State of Rajasthan reported in 2024 INSC 994, (2024) 10 SCC 707 decided on 17. 12. 2024- para 10.

6. On the ground that there is no evidence against the petitioner, direct or indirect to link to the allegation that he is involved in the drug trade vis-à-vis the alleged recovery of the contraband substance from Ri-Bhoi, and in view of the fact that this Court had granted bail to the other co-accused persons, therefore, on the ground of parity also, the petitioner/accused may be enlarged on bail with any conditions that the court may be deemed fit and proper, submits the learned counsel.

7. Per contra, Mr. R. Gurung, learned GA while vehemently opposing the prayer made in the application has submitted that the involvement and role of the petitioner in the whole transaction has been proved in course of investigation, wherein the petitioner himself in his



statement before the police had admitted that he was involved in the business of transaction of the illegal contraband on being initiated into the business by his sister-in-law Monica. On this occasion on 30. 06. 2023 he was detailed by Monica to hand over the consignment of the illegal contraband to two Khasi boys on arrangement that they would meet at the gate of a farmhouse at Ri-Bhoi which was done so after which he and his party left the farmhouse and proceeded towards Guwahati but on the way they were intercepted by the police and placed under arrest.

8. The statement of the petitioner on being corroborated by the statement of the other two accused persons i.e. Shri Ronald Kyndiah and Shri Daniel Syiem therefore, at the stage of consideration of bail, this Court may take notice of the same and be pleased to reject this petition.

9. In support of the prosecution's case, the learned GA has referred to the case of Narcotic Control Bureau v. Mohit Aggarwal, (2022) 18 SCC 374, para 15, 16 and 17 wherein the hon'ble Supreme Court while dealing with a case under the NDPS Act for grant of bail, it was observed that though the court would not rely on the confessional statement of the accused and other co-accused persons recorded under Section 67 of the NDPS Act in the light of the judgment passed in the case of Tofan Singh v. State of TN (2021) 4 SCC 1, however the prosecution is not precluded to oppose the bail application on other grounds.

10. This Court has carefully considered the submission made by the learned counsel for the parties and have also perused the contents of this petition. On merits, the petitioner herein has been charged for alleged commission of an offence under Section 21 (c) and 29 of the NDPS Act.



Section 21 speaks of punishment for those who contravenes any section of the Act by selling, purchasing, transporting etc. of any manufactured drugs or preparation thereof. Therefore, for the petitioner to be so charged, there must be evidence that he is involved in such activities.

11. From the chargesheet what is noted is that the IO while recording the statement of all the three accused persons, from their respective statement it appears the IO came to know that there is a conspiracy amongst the accused persons, including the petitioner herein concerning delivery of consignment of illegal contraband substance (heroin) through the agency of one lady called Monica who has coordinated the entire operation wherein the contraband containing about 30 Nos. of soap boxes are to be delivered to two of the co-accused by the petitioner and another person by the name of Thangboi and eventually the said co-accused persons i.e. Shri Ronald Kyndiah and Shri Daniel Syiem carried out the whole operation to the extent that they were handed over the said contraband by the petitioner which were then kept in one tin box and the box was then hidden by the two persons.

12. This fact has been stressed upon by the learned GA in his submission before this Court to say that there is enough evidence, more particularly coming from the mouth of the petitioner himself that he is involved in the illegal transaction of the seized contraband substance. However, though this Court would be inclined to agree such assertion, what is evidence is that such information has been derived only on the basis of what has been stated by the petitioner and the other two accused persons. In this regard, the case of P Krishna Mohan Reddy (supra) cited by the learned counsel for the petitioner at para-50 and 53 has to be taken into account in



the context of the case of the parties herein. Extract of the same are to produce herein below as:

“50. ...The fundamental cannon of criminal jurisprudence is that a statement of one accused person cannot be used against another co-accused person. The limited exception to this aforesaid general principle are inculpatory confessions, where the accused person in his confessional statement not only admits his own guilt but also implicates another co-accused. The rationale behind this limited exception as explained in Bhuboni Sahu (supra), is that an admission by an accused person of his own guilt affords some sort of credibility or sanction in support of the truth of his confession against others as-well as himself. An exculpatory statement is an affront to the aforesaid principle. Thus, an exculpatory statement of an accused person under Section 161 of the Cr.P.C. can only be looked into for the limited purpose of either culling out the stance of the accused person qua the allegations or for contradicting the accused, if the accused chooses to be examined as a witness in terms of Section 315 of the Cr.P.C. However, such exculpatory statement insofar as it implicates another co-accused person can in no manner be relied upon by the courts as against such co-accused as such statements by their nature cannot be tested by cross-examination if such accused person declines to be a witness in the trial in terms of Section 315 of the Cr.P.C., and because such exculpatory statement has no credibility.



“53. (iv) Where such police statement of an accused is confessional statement, the rigour of Section(s) 25 and 26 respectively will apply with all its vigour. A confessional statement of an accused will only be admissible if it is not hit by Section(s) 24 or 25 respectively and is in tune with the provisions of Section(s) 26, 28 and 29 of the Evidence Act respectively.

In other words, a police statement of an accused which is in the form of a confession is per se inadmissible and no reliance whatsoever can be placed on such statements either at the stage of bail or during trial. Since such confessional statements are rendered inadmissible by virtue of Section 25 of the Evidence Act, the provision of Section 30 would be of no avail, and no reliance can be placed on such confessional statement of an accused to implicate another co-accused.

(v) A confessional statement of one accused implicating another co-accused may be taken into consideration by the court against such co-accused in terms of Section 30 of the Evidence Act, only at the stage of trial...

(vii) Where the police statement of an accused is in the form of an admission, such inculpatory statement even if it implicates another co-accused cannot be taken into consideration against such co-accused in terms of Section(s) 17 read with 21 of the Evidence Act, as doing so would militate against the general principle, that an admission may be given as evidence against the maker alone. The exceptions to the aforesaid general principle carved out under the



Evidence Act, do not permit the usage of such admission against a co-accused in any scenario whatsoever.”

13. What is seen from the above is that confession of an accused before the police is per se inadmissible and no reliance on the same can be placed at the stage of bail or during trial, however a confessional statement of the co-accused can be considered by the Court at the stage of trial.

14. In view of the above, this Court is constrained to agree with the proposition put fourth by the learned counsel for the petitioner and accordingly the prayer made herein is allowed.

15. The petitioner/accused persons is hereby directed released on bail if not wanted in any other case on the following conditions: -

- i. That he shall not abscond or tamper with the witnesses;*
- ii. That he shall attend court as and when called for’*
- iii. That he shall not leave the jurisdiction of Meghalaya, except with due permission or the court concerned; and*
- iv. That he shall bind himself on a bond of ₹ 50, 000/- (Rupees fifty thousand) only along with one surety of like amount to the satisfaction of the trial court.*

16. It is however made clear that any violation of the above conditions would allow the prosecution to approach the trial court for cancellation of this bail.



17. Petition disposed of. No costs.

Judge

Meghalaya
11.09.2025
"Khrav"