

IN THE HIGH COURT OF MANIPUR
AT IMPHAL

Bail Appln. No. 1 of 2026

Gosaimayum Gyanajit Sharma, aged about 25 years, S/o
G. Rishikanta Sharma, R/o Tokpam Leikai, Wangkhei, PO/PS
Porompat, Imphal East District, Manipur.

... Petitioner/ Applicant

-Versus-

The Officer-in-Charge, NAB PS, Manipur, Imphal, P.O. Imphal,
Imphal West District, Manipur – 795001.

... Respondent

B E F O R E
HON'BLE MR. JUSTICE AHANTHEM BIMOL SINGH

For the petitioner :: Mr. Hiyaikhomba Singh, Advocate

For the respondent :: Mr. H. Samarjit, Sr. Advocate asstd.
by Mrs. R.K. Emily, Deputy GA

Date of hearing & order :: **05-06-2026**

O R D E R

[1] Heard Mr. Hiyaikhomba Singh, learned counsel appearing
for the petitioner and Mr. H. Samarjit, learned senior counsel and PP
assisted by Mrs. R.K. Emily, learned Deputy GA appearing for the
respondent.

[2] The case of the prosecution is that on 12-03-2025, at about
08:30 AM, a team of NAB – PS, Manipur, conducted a random frisking

and checking in and around the area of North AOC near Winger Parking, along the Imphal-Ukhrul Road, Imphal West, Manipur. While doing so, the police team found two persons standing behind three black suitcase and one blue suitcase in a suspicious manner. On noticing their suspicious manner, the team approached them and detained the two persons for on-the-spot checking and verification. The said two persons identified themselves as – (i) Thao David Chothe, S/o (L) Thao Peter Chothe of Bishnupur Ward No. 12 and (ii) Yulung Jefferson Chothe, S/o S. Gambir Singh of Lamlanghupi Chothe Bishnupur Ward No. 12. After following due procedure and in the presence of civilian witnesses, search and seizure procedure of the said two persons were carried out. On opening the said suitcases, contraband Ganjas of commercial quantity were found inside the said suitcases and after following due process, the said two persons and the contraband Ganjas were seized by the team of police and handed over to the O.C., NAB – PS for taking necessary action. In connection with the said seizure, an FIR No. 01(3)2025 NAB-PS u/s 20(P)(ii)(c)/29 of the ND & PS Act was registered against the said two persons. It may be noted that the name of the present petitioner was not included as an accused in the said FIR.

[3] The I.O. of the said case submitted the charge-sheet under section 20(b)(ii)(c)/ 129 ND & PS Act on 11-06-2025 against the petitioner for trial as an absconder along with three other co-accused persons before the Special Court, ND & PS, Manipur at Lamphelpat.

Subsequently, the I.O. of the case submitted a Supplementary Charge-sheet on 19-01-2026.

[4] When the police cannot arrest the petitioner and as the petitioner did not appear before the I.O., a Warrant of Arrest was issued against the petitioner on 14-08-2025 on an application filed by the prosecution.

[5] It is the case of the petitioner that the petitioner was working at Delhi as a Salesman in a garment shop namely, T.K. MEM STORE and he returned to Imphal from Delhi on 28-08-2025. On coming to know about the registration of criminal case against him, the petitioner surrendered himself before the Special Court on 01-09-2025 and he was remanded to judicial custody. The petitioner is still under judicial custody till today.

[6] The petitioner filed the first Bail Application being Cril. Misc. (B) Case No. 143 of 2025 before the Special Court, ND & PS, Manipur, on 01-09-2025 praying for recalling the warrant of arrest issued against him and to release him on bail, however, the Special Court (ND & PS) rejected the said bail application. The petitioner thereafter filed his second Bail Application being Cril. Misc. (B) Case No. 164 of 2025 before the Special Court, ND & PS, Manipur, on 03-10-2025. However, the said bail application was also rejected by the Special Court, ND & PS on 29-11-2025. Hence, the present bail application has been preferred by the petitioner before this court.

[7] It has been submitted by the learned counsel for the petitioner that the allegation made against the petitioner in both the charge-sheet is only on the basis of a disclosure statement of the co-accused namely, Thao David Chothe to the I.O. of the case. It has also been submitted that the recovery of the contraband articles were from the exclusive possession of the accused, Thao David Chothe (Accused No. 1) when he was accompanied with Jefferson (Accused No. 2). The learned counsel also submitted that there is no iota of evidence on record to involve the petitioner in the said criminal case, except the statement of the co-accused person, Thao David Chothe to the I.O. of the present case. It has also been submitted that the disclosure statement of the accused, Thao David Chothe, is not believable at all and the said disclosure statement is not admissible as an evidence in law.

[8] In support of the above contentions, the learned counsel for the petitioner relied on the principle laid down by the Hon'ble Supreme Court in the case of **"Tofan Singh Vs. State of Tamil Nadu"** reported in **AIR 2020 SC 5592**. The said judgment in Tofan Singh's case was rendered by a three Judges bench of the Hon'ble Supreme Court. The said judgment was in connection with a reference made before the court and the references are as under:-

1. Whether an officer "empowered under Section 42 of the NDPS Act" and/or "the officer empowered under Section 53 of the NDPS Act" are "Police Officers" and therefore statements

recorded by such officers would be hit by Section 25 of the Evidence Act; and

2. What is the extent, nature, purpose and scope of the power conferred under Section 67 of the NDPS Act available to and exercisable by an officer under Section 42 thereof, and whether power under Section 67 is a power to record confession capable of being used as substantive evidence to convict an accused?

[9] The said two references was answered by the majority of two Judges at para 155 of the said judgment, which are reproduced hereunder:-

“155. We answer the reference by stating:

- (i) That the officers who are invested with powers under section 53 of the NDPS Act are “police officers” within the meaning of section 25 of the Evidence Act, as a result of which any confessional statement made to them would be barred under the provisions of section 25 of the Evidence Act, and cannot be taken into account in order to convict an accused under the NDPS Act.***
- (ii) That a statement recorded under section 67 of the NDPS Act cannot be used as a confessional statement in the trial of an offence under the NDPS Act.”***

[10] It has been submitted by the learned counsel appearing for the petitioner that the accusation made against the petitioner in both the charge-sheet is solely on the basis of the confessional statement made by the Accused No. 1 before the I.O. of the case and as such, the said confessional statement cannot be used as an admissible evidence

against the petitioner in view of the principle of law laid down by the Hon'ble Supreme Court in the case of **Tofan Singh (supra)**.

[11] Mr. H. Samarjit, learned senior counsel and PP submitted that Section 37 of the ND & PS Act, 1985, provides two limitations in granting bail in connection with ND & PS cases. The learned PP submitted that while considering for granting bail to the accused persons under ND & PS Act, the first condition is that the Public Prosecutor has to be given an opportunity to oppose the bail application seeking for release on bail and secondly, where the Public Prosecutor oppose the application, the court should be satisfied that there are reasonable grounds for believing that the accused is not guilty of such offence and that he is not likely to commit any offence while on bail. The learned PP submitted that the petitioner has failed to make out a case that there are reasonable grounds for believing that he is not guilty of the offences accused against him and as such, the bail application may be rejected as being devoid of merit.

[12] I have heard the rival submission of the learned counsel appearing for the parties and also carefully examined the materials available on record. On a careful perusal of the charge-sheet submitted by the I.O. of the case, it is found that the Accused No. 1 made a statement before the I.O. that the contraband article was delivered to the Accused No. 1 by the petitioner. Save and except the said allegation, no other allegation has been made against the petitioner. On perusal of the

interrogation statement of the Accused No. 1 in connection with the said FIR case made before the I.O. of the case, it is found that the Accused No. 1 made a confessional statement that one Khaba delivered the contraband article to him. Except for the said statement, there is no other statement made against the present petitioner.

[13] On careful examination of the interrogation statement made by the Accused No. 1 before the I.O. of the case, it is found that the name of the petitioner is not even mentioned by the Accused No. 1. However, on perusal of both the charge-sheet, it is found that the I.O. of the case mentioned the name of the petitioner and that Khaba is an alias name of the petitioner. However, there is no material available on record to support such statement made by the I.O. of the case.

[14] In view of the above factual position and the principle laid down by the Hon'ble Supreme Court in the case of **Tofan Singh (supra)**, this court is of the prima facie view that there are reasonable grounds for believing that the petitioner is not guilty of committing such an offence made against him. It is, however, made clear that this is only a prima facie view of the court and only for the purpose of considering the present bail application. It is further made clear that any observation/ findings made by this court in the present order should be ignored by the Trial Court during the trial of the case and such observation will not restrict the Trial Court from proceeding with the trial of the case.

[15] In the result, the present application is allowed. It is hereby directed that the petitioner should be released from the judicial custody subject to satisfaction of the following conditions:-

- (i) The petitioner should furnish a personal bond for an amount of Rs. 1,00,000/- (Rupees one lakh) with two sureties of the like amount;
- (ii) The petitioner should make himself available during the period of trial and the investigation in connection with the said case;
- (iii) The petitioner should not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to any police officer;
- (iv) The petitioner should not hamper or tamper any prosecution witnesses; and
- (v) The petitioner should not leave Manipur and India without the prior permission of the Trial Court.

With the aforesaid directions, the present bail application is disposed of

JUDGE

Devananda