



**HIGH COURT OF TRIPURA
AGARTALA**

Crl.P.No.26 of 2026

Sri Sanjay Deb @ Motu,
Aged about 42 years, son of Sajal Deb,
Resident of Taranagar, Mohanpur Bazaar,
P.O. Mohanpur, P.S. Sidhai,
District- West Tripura, Pin-799211.

....Petitioner(s).

Versus

The State of Tripura,
Represented by the Secretary,
Department of Home, Government of Tripura,
New Secretariat Complex,
P.O. Agartala, Secretariat-799010,
P.S. New Capital Complex, District- West Tripura.

..... Respondents.

For Petitioner(s)	:	Mr. Prasanta Sen Chowdhury, Adv.
For Respondent(s)	:	Mr. Raju Datta, P.P.
Date of Hearing	:	23.04.2026
Date of delivery of Judgment and Order	:	28.04.2026
Whether fit for Reporting	:	NO

HON'BLE MR. JUSTICE BISWAJIT PALIT

Judgment & Order

This petition under Section 528 of BNSS corresponding to Section 482 of Cr.P.C. is filed for quashing of the FIR registered in connection with Sidhai P.S. case No.2026 SDI 015, dated 07.03.2026, registered under Sections 20(b)(ii)(C)/25/29 of NDPS Act, 1985,

02. Heard Learned Counsel, Mr. P. Sen Chowdhury appearing on behalf of the petitioner and also heard Learned P.P., Mr. R. Datta appearing on behalf of the State-respondent.

03. Taking part in the hearing, Learned Counsel for the petitioner first of all drawn the attention of the Court referring the contents of the FIR that initially the case was registered on the basis of a complaint laid by one SI Sourav Bhattacharjee of Sidhai P.S. to O.C., Sidhai Police Station.

Referring the contents of the FIR, Learned Counsel further submitted that in the FIR it was specifically mentioned by the informant that a huge quantity of ganja (cannabis) was seized from the rented dwelling hut of one Sri Nipen Kal which was owned by Sanjay Deb and in the FIR, it was also mentioned that during preliminary interrogation the principle accused Nipen Kal disclosed the name of one Babul Datta as his associate. But to substantiate the prosecution case, prosecution could not adduce any evidence on record that any contraband item was seized either from the possession of the present petitioner or also prosecution could not prove any document to substantiate that the said petitioner is the owner of the house from where the alleged contraband item, according to the prosecution was seized.

It was further submitted that the said principle accused, Nipen Kal was by this time arrested by Police nad he

was forwarded before the Court with prayer for police remand and during police remand also no evidence was revealed that the present petitioner was directly involved with the crime or prosecution could not produce any documentary evidence that the present petitioner is the owner of the house from where the alleged contraband was seized. So, it is a clear case of malicious prosecution against the present petitioner accused. Learned Counsel further submitted that this present petitioner since 2019 is staying at Jogendranagar with his family members and a land has been purchased in the name of his wife and the same has been recorded in her name. Admittedly, according to Learned Counsel, earlier the petitioner used to stay at Sidhai Mohanpur but due to some political rivalry he has been shifted and since from 2019 he has been staying at Jogendranagar.

Further, Learned Counsel also submitted that one Subodh Chandra Deb was the owners-in-possession of the land from where the alleged contraband has been seized. As such the petitioner cannot be involved in anyway with the alleged crime. So, Learned Counsel urged for quashing of the false prosecution lost against the present petitioner.

03. To refute the submission made by Learned Counsel for the petitioner-accused, Learned P.P. produced the C.D. and submitted that the investigation of the case is still in progress and from the statement of witnesses so far recorded by I.O. up

to this stage of investigation, prima facie the involvement of the accused cannot be ruled out. It was further submitted by Learned P.P. that even if it is found that no direct contraband item was seized from the possession of the accused still Section 25 of the NDPS Act would be equally applicable against him since he was/is the owner-cum-possessor of the dwelling hut from where the alleged contraband item was seized.

It was further submitted that in course of investigation the I.O. could record the statement of some of the material witnesses from whose statement it is clear that the present petitioner was/is involved in such activity since long back and furthermore, from the statement of son of said Subodh Chandra Deb as alleged by Learned Counsel for the petitioner, it also transpires that said Subodh Chandra Deb had transferred the land to the petitioner accused. So, at this stage of investigation, there is no scope to presume that the petitioner is innocent and he has been falsely implicated in this case and as such Learned P.P. appearing on behalf of the State-respondent urged for dismissal of this petition.

Considered.

04. In this case, prosecution was set into motion on the basis of an FIR laid by SI Sourav Bhattacharjee to O.C. Sidhai P.S. alleging inter alia that on that day at about 1330 hours, he received one secret information from a reliable source that a

huge quantity of ganja (cannabis) has been illegally stored inside the rented dwelling hut of one Sri Nipen Kal being owned by Sanjay Deb @ Motu. After that search was conducted and as per norms, accused Nipen Kal was taken into custody and after weight total 48 kg of ganjas was seized and recovered from the said dwelling hut. It was further stated that during preliminary interrogation, the accused disclosed the name of one his associates Babul Datta to be involved with the alleged crime and finally, the FIR was laid against three persons including the present petitioner. He was taken into custody and after that he was produced before the Court under arrest with a prayer for police remand. Prayer was allowed and when he was produced before the Court later on with further forwarding report, that time similar forwarding report was submitted.

05. I have heard both the sides at length and perused the petition filed by the petitioner and the C.D. produced by the Learned P.P. The present case has been registered under Sections 20(b)(ii)(C)/25/29 of NDPS Act, 1985. For the sake of convenience, let us reproduce herein below the relevant provisions of law under which this present case is registered:

"20(b)(ii)(C) and involves commercial quantity, with rigorous imprisonment for a term which shall not be less than ten years but which may extend to twenty years and shall also be liable to fine which shall not be less than one lakh rupees but which may extend to two lakh rupees:

25. Punishment for allowing premises, etc., to be used for commission of an offence.—Whoever, being the owner or occupier or having the control or use of any house, room,

enclosure, space, place, animal or conveyance, knowingly permits it to be used for the commission by any other person of an offence punishable under any provision of this Act, shall be punishable with the punishment provided for that offence.] 3 [25A. Punishment for contravention of orders made under section 9A.—If any person contravenes an order made under section 9A, he shall be punishable with rigorous imprisonment for a term which may extend to ten years and shall also be liable to fine which may extend to one lakh rupees: [Provided that the court may, for reasons to be recorded in the judgment, impose a fine exceeding one lakh rupees.]

29. Punishment for abetment and criminal conspiracy.—(1) Whoever abets, or is a party to a criminal conspiracy to commit, an offence punishable under this Chapter, shall, whether such offence be or be not committed in consequence of such abetment or in pursuance of such criminal conspiracy, and notwithstanding anything contained in section 116 of the Indian Penal Code (45 of 1860), be punishable with the punishment provided for the offence.

(2) A person abets, or is a party to a criminal conspiracy to commit, an offence, within the meaning of this section, who, in India, abets or is a party to the criminal conspiracy to the commission of any act in a place without and beyond India which—

(a) would constitute an offence if committed within India; or

(b) under the laws of such place, is an offence relating to narcotic drugs or psychotropic substances having all the legal conditions required to constitute it such an offence the same as or analogous to the legal conditions required to constitute it an offence punishable under this Chapter, if committed within India.”

From the aforesaid provisions of law, it appears that Section 20(b)(ii)(C) relates to possession of contraband items. Section 25 relates to punishment for allowing premises etc. to be used for commission of offence and Section 29 relates to punishment for abatement and criminal conspiracy. Here, investigation of the case is in nascent state. From the materials so far collected by I.O. up to this stage of investigation, it

appears to this Court that the I.O. should be given more scope to investigate the case properly to unearth the truth.

Furthermore, the involvement of the present petitioner-accused relating to commission of offence punishable under Sections 25 and 29 of NDPS Act requires to be verified by the I.O. properly.

More so, regarding application of the provision of Section 25 of NDPS Act, it is also not necessary that the premises where the contraband item was seized needs to be owned by any person, if it is found that the person occupies the same or having control over the same or use any room and closure place etc. in that case Section 25 of NDPS Act can be attracted. Here from the materials so far collected by I.O. up to this stage, the prima facie involvement of the petitioner-accused cannot be ruled out till completion of investigation and there is also no scope to presume the accused to be innocent and in respect of application of Section 29 of NDPS Act, more evidence is to be collected by I.O. regarding abatement and criminal conspiracy by the petitioner accused. However, considering the gravity of the offence, this Court is of the considered view that I.O. should be given more scope to verify all the contentions raised by the petitioner. But it is also the admitted position that up to this stage the I.O. also could not procure any conclusive proof before this Court to substantiate

that the petitioner-accused is the sole owner of the property from where the contraband items has been seized.

06. However, considering the materials on record, at this stage, I do not find any scope to allow the petition filed by the petitioner-accused for quashing of the FIR in connection with Sidhai P.S. case No.2026 SDI 015, dated 07.03.2026 under Sections 20(b)(ii)(C)/25/29 of NDPS Act, 1985 and as such the present petition is found to be bereft of merit and the same is liable to be dismissed.

In the result, the petition filed by the petitioner stands dismissed being devoid of merit.

Send a copy of this order to the Learned Court below. Also return back the C.D. to I.O. through Learned P.P. along with a copy of this order.

With this observation, this petition stands disposed of.

Pending application(s), if any, also stands disposed of.

JUDGE

Purnita

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DEB**

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