



HIGH COURT OF TRIPURA
AGARTALA

BA No.83 of 2026

Sri Surendra Nama,
S/o Late Upendra Chandra Nama, resident of Monohartilla, Bhabanipur,
Ward No.6, P.S. Jatrapur, District – Sepahijala, Pin-799131.
(The accused person being lodged in judicial custody, the present petition is preferred and
presented by the father of the accused person)

.....Petitioner(s);

On behalf of :

Sri Subrata Nama,
S/o Surendra Nama, resident of Manoartilla, Bhabanipur, Ward No.6, P.S.
Jatrapur, District- Sepahijala Tripura, Pin-799131.

..... Accused Person(s);

V E R S U S

The State of Tripura
(Represented by the Secretary, Home Department, Government of Tripura,
Agartala)

.....Respondent(s);

For Petitioner(s) : Mr. Janardhan Bhattacharjee, Advocate,
Mr. Sajib Ghosh, Advocate,
Mr. Subhradip Sharma, Advocate.

For Respondent(s) : Mr. Raju Datta, P.P.

HON'BLE MR. JUSTICE S. DATTA PURKAYASTHA

O R D E R

29/04/2026

Heard learned counsel of both sides.

[2] The present bail application has been filed on behalf of accused
Sri Subrata Nama, in connection with Sonamura PS case No.
2025/SNM/109, registered under Sections 22(C)/25/29 of NDPS Act, 1985.
The accused person was arrested on 16.03.2026 and since then he is in
custody.

[3] WSI Shibani Debbarma lodged the written FIR on 17.12.2025 to
the O/c Sonamura PS, alleging inter alia, that based on a secret information,

she raided the house of co-accused Jahangir Hossain and recovered 1.50 grams suspected heroin and 1174 nos. of yaba tablets, weighing total of 120 grams. Accordingly, said Jahangir Hossair was arrested at that time.

[4] During interrogation of said accused Jahangir Hossain, the name of the present accused was revealed as one of his associate in the alleged crime, and thereafter, the present accused person was arrested on 16.03.2026. The grounds of arrest was communicated to him and therein the ground as was mentioned is that from the disclosure of co-accused Jahangir Hossain during his remand period, it was revealed that the present accused person was also involved in the matter and there was chance of his abscondence in Bangladesh, and therefore, he was arrested. The accused person is in custody for more than one and half months.

[5] Mr. Janardhan Bhattacharjee, learned counsel for the petitioner, with all emphasis argues that statement of a co-accused cannot be used against another accused and this is the settle position of law. Even in this case, no confessional statement was recorded by any Judicial Magistrate, nor any such statement of the co-accused was also recorded by the Investigating Officer under Section 67 of the NDPS Act. Therefore, there is also no basis for the alleged disclosure by said accused Jahangir Hussain and without having any further material against the present accused, he was arrested, and thus, the arrest itself was illegal. Learned counsel also submits that nothing was recovered from the present accused person. Further, learned counsel mentions of an incident referred to in the bail application, stating that prior to arrest of said accused Jahangir Hossain, on 13.02.2026, there was a collision between the vehicle of one person and vehicle of the present accused and at that time, while intervening into the matter, there

was a hot altercation between the O/c of Sonamura PS and the present accused person, for which he has been falsely implicated in this case.

[6] Learned counsel also relies on the following decisions to support his submissions:

(i) In case of **Bikram Patra versus State of Chhattisgarh [Special Leave Petition (Crl.) No.2402 of 2026]** decided on 25.03.2026, the case was concerning an intermediate quantity of narcotic items. The Hon'ble Supreme Court observed that there was no recovery effected from the appellant and he was simply implicated on the basis of the statement made by the co-accused. Considering thus, the bail was granted to him.

(ii) In case of **Jiarul Islam @ Jiyarul Hoque versus the State [C.R.M. No.2760 of 2021]** it was observed by the Hon'ble Calcutta High Court that there was no recovery of any contraband item from the petitioner and his name was transpired from statements made by the co-accused persons from whom recovery was made. The High Court also perused all the materials in the case diary and did not find any direct implication of the petitioner in the alleged offence. Charge-sheet was also filed in said case, and thereafter, on overall assessment of the materials on record, bail was granted.

(iii) In case of **Aasif Mohammad @ Asif Mohammad @ Asif @ Viki versus the State of West Bengal [CRR No.4110 of 2022]** decided on 06.04.2026, it was a case concerning commercial quantity of contraband items. The Hon'ble Calcutta High Court, on appreciation of materials placed in the record after charge-sheet was submitted, observed that there was no

iota of evidence collected during the investigation against the accused petitioner indicating his involvement, in any way, in the crime alleged and he was implicated therein only on the basis of confessional statement of the co-accused persons without any link to the seized goods. The High Court, in that context, observed that such confessional statements of the co-accused could not be used in view of the provisions of Section 25 of the Indian Evidence Act, 1872, and finally quashed the proceedings in respect of said accused petitioner.

(iv) In case of **Shri Dipesh Majumder for and on behalf of Shri Sukesh Majumder and another versus the State of Tripura [B.A. No.156 of 2019]** decided on 19.12.2019, as relied on by learned counsel Mr. Bhattacharjee, the bail petition was filed on behalf of two accused persons, in connection with a case concerning commercial quantity of contraband items. Recovery of contrabands were effected from other accused persons and not from them. A coordinate Bench of this Court, after perusing the materials placed in the case diary, observed that there was no proof to hold that those two accused persons were involved in any culpable act or they possessed commercial quantity or less quantity of narcotic and psychotropic substance. The materials as surfaced could not grind the involvement of the accused persons and the Court found it difficult to believe that the accused persons had in all likelihood committed the alleged offence. Therefore, the learned Bench came to the conclusion that even the allegation of trafficking, as made by the witnesses were assumptive in nature. Considering the deficiency in the evidence, Court in that case was inclined to grant bail.

[7] Learned Public Prosecutor, however, strongly opposes the bail prayer submitting that apart from the statement of the co-accused, there are

direct evidences of involvement of the present accused person in the alleged crime. Learned Public Prosecutor also submits that mere absence of recovery of any contraband item from the accused person will not absolve him from his criminal liability. Moreover, unless the twin conditions as embodied under Section 37 of NDPS Act are satisfied, bail cannot be granted to him.

[8] Learned Public Prosecutor also relies on a decision of Hon'ble Supreme Court in case of **Union of India through Narcotics Control Bureau, Lucknow versus Md. Nawaz Khan [(2021) 10 SCC 100]** wherein at paragraph no.29, it was observed by the Hon'ble Supreme Court that a finding of the absence of possession of the contraband on the person of the respondent by the High Court does not absolve it of the level of scrutiny as required under Section 37(1)(b)(ii) of the NDPS Act.

[9] The Court has appreciated the submissions of both sides and meticulously gone through the case diary. It appears that the present accused was initially arrested on the basis of statement of co-accused person. However, later on, during the investigation, on examination of independent witnesses, it was revealed that on the previous night of the alleged recovery, the present accused person had handed over the yaba tablets to the accused Jahangir Hossain coming in an ash colour Maruti vehicle. The police also seized one gray colour Maruti Suzuki Ignis vehicle from the house of the present accused person which had no registration number, chassis number or engine number. Normally, a vehicle must bear the chassis number and engine number unless it is erased out by somebody. Therefore, it is also a suspicious circumstance against the accused.

[10] Considering all these aspects, it is held that the twin conditions as imposed in Section 37 of the NDPS Act cannot be satisfied. Moreover, apart from the statement of the co-accused, there are direct prima facie materials against the present accused person regarding his involvement in the matter. Even if he was initially arrested on the basis of statement of a co-accused person, this fact by itself does not fulfill the conditions as imposed in Section 37 of NDPS Act.

[11] Considering thus, the instant bail application is rejected.

Return the case diary to learned Public Prosecutor with copy of this order.

Also re-consign the trial Court record to learned Court below with copy of this order.

JUDGE