

**HIGH COURT OF TRIPURA
AGARTALA
CRL.A. NO.35 OF 2025**

The State of Tripura,
Represented by the Secretary,
Home Department, Government of Tripura.

.....Appellant

VERSUS

Golom Rabban Ali,
S/o Ali Ajgar resident of Boxanagar,
Ward No.-4, P.S.- Kalamhoura,
District-Sepahijala, Tripura.

.....Respondents

For Appellant(s) : Mr. R. Datta, P.P.
Mr. R. Saha, Addl. P.P.

For Respondent(s) : None.

Date of hearing and delivery
of judgment and order : 11.03.2026.

Whether fit for reporting : NO.

**HON'BLE JUSTICE DR. T. AMARNATH GOUD
HON'BLE MR. JUSTICE S. DATTA PURKAYASTHA**

JUDGMENT & ORDER (ORAL)

1 This present appeal has been filed against the Judgment dated 10.06.2024 passed by the learned Special Judge(NDPS), Sepahijala Tripura, Sonamura in case No. Special(NDPS) 5 of 2024, whereby the respondent-accused person have been acquitted from the charge under Section 20(b)(ii)(C)/25 of NDPS Act, 1985.

2. The brief facts of the case are that on 02.08.2023, acting upon a secret information, the police conducted a search at the house of the respondent at Kalamchoura and allegedly recovered about 82 kg of dry ganja stored in plastic drums. The contraband articles were seized in presence of witnesses and the respondent was arrested. On the basis of the said incident, Kalamchoura P.S. Case No. 2023 KLC 080 dated 02.08.2023 was registered under Sections 20(b)(ii)(C)/25/29 of the NDPS Act. After completion of investigation, charge sheet

was submitted and the learned Special Judge (NDPS), Sepahijala took cognizance and framed charge under Sections 20(b)(ii)(C)/25 of the NDPS Act against the respondent.

3. During trial, though the prosecution had cited several witnesses, none of the prosecution witnesses were examined. The learned Special Judge eventually closed the prosecution evidence and by judgment dated 10.06.2024, acquitted the accused under Section 232 Cr.P.C. on the ground that no evidence had been adduced by the prosecution.

4. Being aggrieved by and dissatisfied, the appellant has preferred this appeal to set aside the impugned Judgment dated 10.06.2024 passed by the learned Special Judge(NDPS), Sepahijala, Tripura, Sonamura in case No. Special(NDPS) 5 of 2024 and convict the respondent against the charge under Section 20(b)(ii)(C)/25 of NDPS Act, 1985 and remand the case to the Court of learned Special Judge(NDPS) Sepahijala Tripura, Sonamura and give reasonable opportunity to the prosecution agency to produce their prosecution witnesses for proving their case.

5. Heard Mr. R. Datta, learned P.P., appearing for the appellant-State. Despite proper service of notice, none appears for the respondent.

6. Learned Public Prosecutor appearing for the appellant-State submitted that the learned trial court committed serious error in closing the prosecution evidence without granting reasonable opportunity to the prosecution to produce the witnesses. It was contended that summons issued to the prosecution witnesses had not been duly served and the service reports were not received. It was further submitted that the witnesses could not appear on certain dates due to official engagements including election duty. It is argued that the learned trial court ought to have afforded reasonable opportunity to the prosecution, particularly in a case involving recovery of a commercial quantity of contraband under the NDPS Act. According to the learned PP submits that present

7. In all fairness, the learned Public Prosecutor submitted before this Court that about 150 cases were decided within a short span of time and all resulted in acquittal. When enquiry was made with the Public Prosecutor of the trial court, he tendered his resignation. It was submitted that but for the fault of the said Public Prosecutor in not properly conducting the matters, the State had serious

doubts regarding his integrity and his resignation was accordingly obtained. Consequently, the State has preferred several appeals and the present case is one such appeal where interference of this Court is warranted, as there appears to be a gross violation of the provisions of the Cr.P.C. in proceeding with the trial without affording adequate opportunity to the prosecution. There was no necessity to dispose of the matter within such a short period.

8. We have considered the submission of the learned Public Prosecutor and perused the records of the case. It appears from the order sheets that though summons were issued to the prosecution witnesses, however, witnesses could not appear on certain dates as they were reportedly engaged in official duties including election duty. It is seen from the record that without granting adequate opportunity to the prosecution to secure the attendance of the witnesses, the learned trial court proceeded to close the prosecution evidence and ultimately acquitted the accused under Section 232 of the Cr.P.C. In a case involving serious allegations under the NDPS Act and recovery of a commercial quantity of contraband, the prosecution ought to have been given reasonable opportunity to adduce evidence. In the considered opinion of this Court, the impugned judgment was passed prematurely and the matter deserves to be remanded to the learned trial court for fresh trial after affording reasonable opportunity to the prosecution

9. Accordingly, the matter is remanded back to the concerned trial Court with a direction to conduct a fresh trial by calling upon the witnesses of the prosecution afresh and further allowing the prosecution to prove the relevant documents in support of the prosecution case allowing the accused to conduct the defence properly and thereupon to deliver a fresh judgment in accordance with law. However, it is made clear that if the parties want to rely upon the earlier evidence on record, in that case, the learned Special Judge may examine the rest witnesses after hearing both the sides affording reasonable opportunities to the parties. The trial shall be conducted as expeditiously as possible. The respondent is hereby directed to surrender before the Learned Trial Court on or before 31.03.2026. On his surrender, the learned Trial Court may consider bail application if so filed, in accordance with law, so that his right is not infringed.

10. Accordingly, the present appeal is allowed and the impugned Judgment and Order dated 10.06.2024 stands set aside and matter is remanded back with the above mentioned directions and observation. As a sequel, stay if any stands vacated. Pending application(s) if any also stands closed.

S. DATTA PURKAYASTHA, J

DR. T. AMARNATH GOUD, J

Suhanjit

RAJKUMAR SUHANJIT
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