



Serial No. 03
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

BA. No. 12 of 2026

Date of Decision: 02.04.2026

Shri. Rana Marak
S/o Shri Rojot Marak
R/o Upper Rajapara,
South West Khasi Hills
Shillong, Meghalaya.
(Brother of accused Shri. Ferdinand M. Marak)

..... **Petitioner**

- Vs-

1. Union Of India,
Represented by NCB (Narcotics Bureau),
Guwahati.

..... **Respondent**

Coram:

Hon'ble Mr. Justice W. Diengdoh, Judge

Appearance:

For the Petitioner/Appellant(s) : Ms. P. Chettri, Adv.
Mr. H. Miah, Adv.

For the Respondent(s) : Mr. I. Singh, Adv.

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



JUDGMENT AND ORDER (ORAL)

1. This is an application under Section 483 BNSS, with a prayer for grant of bail on behalf of Shri. Ferdinand M. Marak who has been remanded to judicial custody on the strength of an order dated 12.03.2026 passed by the Court of the learned Special Judge (NDPS), West Jaintia Hills District, Jowai, in CrI. NDPS Case No. 1 of 2026.

2. Heard Ms. P. Chettri, learned counsel for the petitioner, who has submitted that, it has come to the knowledge of the accused person in question who is the brother of the petitioner herein that on 31.07.2025, personnel of the Narcotic Control Bureau (NCB), apparently, on receipt of specific information about trafficking of substantial quantity of contraband substance, had intercepted one vehicle (Sumo), and after conducting a search, has effected a seizure of 1.957 Kgs of methamphetamine tablets from the conscious possessions of two persons namely, Smti. Terina Sangma and Shri. Shankar Sangma. Accordingly, on legal formalities being followed, the two persons were arrested on 31.07.2025 itself.

3. It is the submission of the learned counsel that on a criminal case being registered, investigation was carried out, and the Investigating Officer (I/O) has then filed the charge sheet on 29.01.2026.



4. The learned counsel has also submitted that the accused brother of the petitioner herein is not connected or not involved with the said case and has also not received any summons or notices from the police or from the court. However, he was surprised to receive a phone call in the month of February from the Dangar Police Outpost that the Bailable Warrant of Arrest (BWA) has been issued in his name by the Special Judge (NDPS) Jowai. The accused has then appeared before the Dangar Police Outpost and has forfeited the bail amount which was set at ₹ 10,000/-. He was further directed to appear before the said court on 12.03.2026.

5. It is also the submission of the learned counsel that, in the meantime, an application for recall of the said BWA has also been filed before the concerned court. When the accused appeared before the court on 12.03.2026 along with his counsel and has also informed the court that the bail amount has been forfeited, he was informed that the application for recall of the warrant stands infructuous. However, the learned counsel for the accused person has made a prayer for time to file a bail application which was allowed.

6. Though the said bail application was filed in course of the day, however, the same was not taken up and instead, the learned Trial Judge had passed an order remanding the accused person in question to 14 days judicial



custody and has fixed the date for his production on 27.03.2026.

7. The learned counsel has reiterated that the accused person in question is not at all involved in the case, and being a student with the prospect of pursuing a career in the Paramilitary Force, therefore, his illegal detention would cause prejudice to him, apart from the fact that he has no criminal antecedents. It is therefore, a fit case for his release on bail with any conditions that this Court may impose.

8. Mr. I. Singh, learned counsel for the respondent/NCB in his response, has submitted that the accused person in question is very much involved in the case, since his name has figured in the charge sheet, his complicity being that he has been shown to be the financier of the said illegal transaction for the procurement and transportation of the seized contraband substance. This fact has turned up during investigation when monetary transactions had been established between the accused person herein and another co-accused person, Shri. Shankar Sangma. The fact that this accused person has also been named as an absconder, has also been reflected in the records. Therefore, the court has issued a number of summonses to compel him to appear before the court and finally a Bailable Warrant of Arrest was issued.

9. The learned counsel has also submitted that on 12.03.2026, the



learned counsel for the accused had made a prayer before the court to file a bail application, but the same was only filed in the second half of the court's hour. The court has therefore taken up the matter on 24.03.2026. On this date too, though the hearing on the bail application was deferred to the next date as the counsel for the prosecution was indisposed, however, because of the absence of the counsel for the accused, the bail application was disposed of on default.

10. The learned counsel has also submitted that the offences involved are non-bailable, that is one under Section 8(c), punishable under Section 22(c), 28, 29, 35, and 54 of the NDPS Act, has also attracted the provision of Section 37 of the NDPS Act. It is therefore incumbent upon the accused to file a regular bail application before the court, which application will be heard in the presence of the prosecutor. However, since the said bail application has only been disposed of on default, the order of the court remanding the accused to judicial custody, is therefore valid.

11. In reply, the learned counsel for the petitioner has submitted that the accused person has received copy of the charge sheet, however, the name of the accused person in question is not found in the said charge sheet. Even otherwise, since the accused person has not been earlier arrested or had been arrested and was enlarged on bail, therefore, as has been observed in the case



of **Satender Kumar Antil v. Central Bureau of Investigation & Anr, (2022) 10 SCC 51**, at para 89, under such circumstances there is no need for further arrest at the instant of the court.

12. The learned counsel has also referred to Section 88 Cr.P.C, which provides that a person who was issued with a warrant on being present before the court concerned, he may be required to execute a bond for his appearance in such court which was done so, by the accused person in question. However, the learned Trial Court, instead of acknowledging the bond duly executed, had remanded him to judicial custody.

13. This Court on consideration of the submission made by the parties, is made to understand that the crux of the matter as far as the case of the accused person in question is concerned, is that, though, a Bailable Warrant of Arrest have been issued against him, requiring his presence in court, after complying with the legal formalities, that is, firstly appearing before the Police Outpost at Dangar and being made to execute a bond, thereby discharging the said warrant issued against him, on being directed to appear before the court which he has done so on 12.03.2026, the court being aware of the execution of such bond before the police and also being satisfied that the accused had appeared before the court, had instead remanded him to judicial custody.



14. The fact that the accused person had appeared before the court, such act is consistent with the provision of Section 91 BNSS, which reads as follows:

“91. When any person for whose appearance or arrest the officer presiding in any Court is empowered to issue a summons or warrant, is present in such Court, such officer may require such person to execute a bond or bail bond for his appearance in such Court, or any other Court to which the case may be transferred for trial.”

15. The Trial Court on being satisfied with the bonafide of the accused could have accepted such submission and should have directed the accused to appear on the next date for taking part in the proceedings. However, from the records, particularly on perusal of the said order dated 12.03.2026, it is seen that it is the accused person through his counsel who has sought for filing of a regular bail application. The court on allowing such prayer, such petition was filed, however, the hearing on the same could not be taken up on that day and the next date fixed was 24.03.2026. On 24.03.2026, the said application has been disposed of on default, meaning that the same has not been pressed by the petitioner therein.

16. As to the contention that the name of the accused person in question is not found in the charge sheet, the learned counsel for the respondent/NCB has contended that the said charge sheet produced by the learned counsel for the petitioner is not the complete charge sheet. Whereas,



in the final charge sheet, the name of the accused person in question has appeared as one of the accused persons who has been charge sheeted. This Court will not be in a position to clarify such dispute. It would be better for the accused person to confirm such facts from the Trial Court records.

17. Under such circumstances, since the court has already remanded the accused person to judicial custody, a judicial order having been passed, it would be the proper course of action for the accused person to file an appropriate application for grant of bail before such court.

18. Accordingly, under the peculiar facts and circumstances of the case of the accused person in question, the prayer made in this petition cannot be entertained at this juncture.

19. This petition is accordingly dismissed and disposed of in the light of the above observations. It is made clear that the merits of the case of the parties have not been gone into.

Judge