



Serial No. 01
Supplementary List

HIGH COURT OF MEGHALAYA
AT SHILLONG

AB. No. 8 of 2025

Date of Decision: 28.03.2025

Mr. Sourab Saha, Age : 26 yrs
 Son of Mr. Sankar Saha
 Resident of – 205, 4/Rajnagar Road No. 03,
 Teliamura, P.O & P.S :- Teliamura,
 District:- Kowai, State : Tripura

.....**Petitioner**

- Vs-

Union of India
 Represented by :
 Shri. Ramekbal Roy
 Senior Intelligence Officer,
 Directorate of Revenue Intelligence,
 Shillong Regional Unit, Shillong

.....**Respondents**

Coram:

Hon'ble Mr. Justice W. Diengdoh, Judge

Appearance:

For the Petitioner/Appellant(s)	:	Mr. K. Boruah, Adv. Mr. M. Alam, Adv.
For the Respondent(s)	:	Mr. J.I. Nongrum, Adv. Ms. R. Fancon, Adv. vice Dr. N. Mozika, DSGI.

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

Yes/No

JUDGMENT AND ORDER (ORAL)

1. Heard Mr. K. Boruah, learned counsel for the petitioner, who has submitted that this is an application under Section 482 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023 with a prayer for grant of pre-arrest bail.

2. The apprehension of the petitioner relates to a chain of events which involves his vehicle being a commercial truck bearing Registration No. NL 01 AH 80847 driven by Mr. Kuldeep Singh, the authorized driver of the said truck.

3. It is the further submission of the learned counsel that records would show that on 17.12.2024 at about 6:30 AM or so, the said vehicle, while plying through the State of Meghalaya, was intercepted by the DRI officials at Mawryngkneng, National Highway – 6, wherein it was found that the vehicle was loaded with 600 bags of cement, however, on closure inspection of the said vehicle, there was found a secret compartment under the steel flooring of the cargo bay, where on being pried open, 58 packages containing ganja (cannabis) and other materials was discovered. The quantity of the recovered ganja is 242.510 kgs. Accordingly, a case was



registered under the relevant provisions of the NDPS Act, and the said driver was arrested by the police. However, in due course, the said driver was later granted bail by the Court of the learned Special Judge (NDPS), Shillong.

4. The case of the petitioner is that the said vehicle, though, it belonged to him, was under authorization handed over to the care and custody of the said driver, who is at liberty to ply the same and to make use of the said vehicle for business purposes. The petitioner has no knowledge of the cargo or goods ferried in the said vehicle, and as such, as submitted by the learned counsel, he cannot be implicated in the said case. Since it is admitted that the said vehicle belongs to him, apprehending arrest, he had approached the Court of the learned Special Judge (NDPS), Shillong with a prayer for grant of anticipatory bail, for which vide relevant order dated 27.01.2025, interim bail was granted to him with conditions set therein. However, when his application was taken up for final consideration, the learned Special Judge vide order dated 13.02.2025, had dismissed the same. Hence, this petition.

5. The learned counsel has further submitted that the petitioner would maintain that he has no knowledge whatsoever of the activities of the said driver, who allegedly, had admitted before the authorities concerned that the seized contraband substance (ganja) was concealed by him in the said



cargo bay of the truck. Under such circumstances, it is prayed that the petitioner may be allowed to be enlarged on bail in the event of his arrest with any conditions as deemed fit and proper to be imposed by this Court. In the meantime, before final disposal of this instant petition, it is the prayer of the learned counsel for the petitioner that the petitioner may be allowed to go on interim bail to allow this Court to call for the case record and to enable this Court to peruse the materials therein.

6. Per contra, Mr. J.I. Nongrum, learned counsel vice Dr. N. Mozika, learned DSGI for the respondent/Union of India, has strongly opposed the prayer made on the ground that the said truck belongs to the petitioner is not denied, and as to how the body of the truck was constructed including the provision for construction of the said secret cargo bay, records would show that the petitioner is aware of the same, and as such, inference can be drawn to say that the petitioner is in the know as to what would be the purpose for which the truck is to be used, apart from ferrying of normal materials like cement, etc.

7. The other point raised by the learned counsel is that the petitioner, on being granted interim bail vide the said order dated 27.01.2025, one of the conditions set by the court granting him interim bail is that, he should appear before the Investigating officer concerned within 48 hours which he



failed to do so, and has appeared before the Investigating Officer only on 31.01.2025. This by itself, would indicate that the petitioner has violated the conditions set forth, and therefore, cannot come before this Court praying for leniency.

8. It is the further submission of the learned counsel that the driver of the said vehicle, on being enlarged on bail, has absconded and could not be traced out, thereby putting the brakes on the ongoing investigation, and, if the petitioner, who is probably in the know of what is going on, is allowed to go on bail, the fact that he is a permanent resident of Tripura, there is no guarantee that he would cooperate with the investigation or that he would appear before the Investigating Officer as and when required. It is therefore prayed that this petition may be dismissed as devoid of merits.

9. This Court has heard the parties, and have gone through the petition in hand including the said order dated 27.01.2025 and the order dated 13.02.2025 passed by the learned Special Judge (NDPS), Shillong, copies of which have been produced before this Court today.

10. Apparently, the quantity of seizure of the contraband substance (ganja) constitute commercial quantity, and as such, with regard to grant of bail, this Court will have to look into this petition through the prism of



Section 37 of the NDPS Act. Needless to say, the said provision has highlighted two principles contrary to the popular principle of bail jurisprudence, that is, ‘Bail and not Jail’, where under the said provision, the principle is applied to the contrary that is, ‘Jail and not Bail’, and, if bail is to be granted, the Court is to be convinced on reasonable grounds that the accused/petitioner/applicant is innocent, and that he shall not commit any similar offence or offences, if enlarged on bail.

11. The facts of this case would reveal that the said contraband substance was seized from the truck belonging to the petitioner, though, driven by another person. The petitioner has not been able to explain as to his ignorance, if at all of the said secret compartment or cargo bay located within the said truck. It is therefore to be presumed that he is aware of the presence of such secret compartment.

12. Another contention raised by the learned counsel for the respondent is that the petitioner, being a permanent resident of another State apart from the State of Meghalaya, a criminal case being instituted within the State of Meghalaya, therefore, in all probability, he would be a flight risk, if enlarged on bail.

13. In any view of the matter, this Court is not convinced by the



prayer made by the petitioner. The applicability of Section 37 of the NDPS Act is made more pronounce to say that no reasonable grounds have been cited to convince this Court that the petitioner is not guilty of the offence alleged, prima facie. Accordingly, this petition is hereby dismissed as devoid of merits.

14. With the above noted observations, this petition is disposed of accordingly.

Judge