

**HIGH COURT OF TRIPURA
AGARTALA**

BA No.50 of 2026

Sri Rakesh Ray,

S/o Sri Hardev Ray, resident of Rasulpur, Fateh, Vaishali, Bihar - 844122.

.....Petitioner(s);

For and on behalf of

Sri Raj Kumar Ray,

S/o Sri Hardev Ray, resident of ABC Tarun Nagar, Bylane-3, P.S. Bhangagarh, Guwahati, District – Kamrup, Assam.

..... Accused person;

V E R S U S

The State of Tripura

.....Respondent(s);

For Petitioner(s) : Mr. Sankar Lodh, Advocate,
Mr. Subham Majumder, Advocate.

For Respondent(s) : Mr. Raju Datta, Public Prosecutor.

HON'BLE MR. JUSTICE S. DATTA PURKAYASTHA

_O_R_D_E_R_

17/03/2026

Heard learned counsel of both sides.

[2] The bail petition has been filed seeking bail of Sri Raj Kumar Ray, in connection with Mungiakami PS Case No. 2025 MGK 006, subsequently registered as Special (NDPS) 61 of 2025 under Sections 22(b)(ii)(c), 29 of NDPS Act, pending in the Court of learned Special Judge (NDPS), Court No.2, Khowai, Tripura. The accused was arrested on 14.07.2025.

[3] Allegation in the FIR lodged by the SI of police Sri Kasnarai Reang that on that day he along with other police personnel left for routine vehicle checking duty at 41 Mile Naka

Point of National Highway-8 and there they detained one container vehicle bearing no.HR-39-D-0522 for checking purpose. Ultimately, on search, after breaking a hidden chamber in the upper portion of the cabin of said vehicle, recovered total 29 packets wrapped with brown colour adhesive tape containing suspected ganja and one driving licence in the name of present accused. On measurement, the total weight of such ganja was found to be 207 kg and 200 grams. Police accordingly arrested the said accused. He was produced before the learned Special Judge on 15.07.2025 seeking police remand. The investigating officer also submitted arrest memo and copy of grounds of arrest before the learned Special Judge at that time.

[4] Learned counsel, Mr. Sankar Lodh, submits that though a memorandum of ground of arrest was prepared by the arresting police officer but it was never supplied to the accused and he was completely in dark about the grounds of his arrest and thereby the police authority has violated Article 22 of the Constitution of India.

[5] Learned counsel Mr. Sankar Lodh, relies on several decisions of Hon'ble the Supreme Court passed in cases of **Pankaj Bansal versus Union of India and others [(2024) 7 SCC 576]; Prabir Purkayastha versus State (NCT of Delhi) [(2024) 8 SCC 254]; Kasireddy Upender Reddy versus State of Andhra Pradesh and others [2025 SCC OnLine SC 1228]; Ahmed Mansoor & others versus the State, represented by Assistant Commissioner of Police and another [2025 SCC**

OnLine SC 2650]; and Mihir Rajesh Shah versus State of Maharashtra and another [(2026) 1 SCC 500]. According to learned counsel, Mr. Sankar Lodh, for violation of said provision of Article 22(1) and Section 47 of BNSS, the arrest of the accused as well as his subsequent remands have been rendered illegal. Therefore, the bail may be granted to him.

[6] Learned Public Prosecutor, Mr. Raju Datta, however, submits that along with the copy of arrest memo which contained the signature of the accused, copy of grounds of arrest was also supplied to him before he was produced before the learned Special Judge and he being fully conversant with the grounds of arrest, participated in remand proceeding before the learned Special Judge.

[7] This Court has considered the submissions of both the sides. From the record, it appears that one memorandum of grounds of arrest was prepared by the arresting officer but there was no acknowledgment of the accused person regarding receipt of said grounds of arrest nor his signature therein was taken.

[8] In **Vihaan Kumar versus State of Haryana and another [(2025) 5 SCC 799]** it was observed by the Hon'ble Supreme Court that when an arrestee pleads before a Court that grounds of arrest were not communicated, the burden to prove the compliance of Article 22(1) is on the police.

[9] In **Mihir Rajesh Shah versus State of Maharashtra and another [(2026) 1 SCC 500]** it was observed by the

Hon'ble Supreme Court that if a person is not informed of the grounds of his arrest as soon as maybe, it would amount to the violation of his fundamental rights thereby curtailing his right to life and personal liberty under Article 21 of the Constitution of India, rendering the arrest illegal. It was further observed that the obligation to inform the grounds of arrest to the arrestee is thus, not just a mere procedural formality, instead it flows from the fundamental right of personal liberty which sets the further course for protection from the oppressive restrictions imposed upon the free movement in the society of an arrestee during remand.

[10] Thus, when such allegation of non-furnishing of grounds of arrest is brought forward from the side of arrestee, it is for the arresting officer to show compliance of such provision of Article 22(1) of the Constitution of India and Section 47 of the BNSS. Here it appears that the arresting officer though prepared the grounds of arrest and also forwarded the same to the learned Special Judge, there is no proof that same was furnished to the accused. The petitioner through affidavit has stated that ground of arrest was not supplied either to the accused or any of his family members.

[11] Therefore, two conclusions are possible – (i) that no such ground of arrest was at all communicated to the accused, rather to give an artificial show of discharge of the obligation of informing the same to the arrestee, he has forwarded a prepared copy to the learned Special Judge; or (ii) that he has duly handed

over the same to the arrested accused, but has failed to obtain the signature of the arrestee in the document. When law imposes burden on the arresting officer to prove the communication of grounds of arrest to the arrestee, it is his duty to show that it was actually communicated. In the instant case as discussed above, there is no satisfactory proof that grounds of arrest was actually communicated to the arrested person.

[12] It is a case concerning huge quantity of contraband items and time and again this Court is observing that such drug trafficking has already cast a serious deleterious affect in the society and the State is being sufferer tremendously. Therefore, it is quite surprising as to how a police officer arresting a person involved in trafficking of such huge quantity of contraband item can commit such omission or mistake. It is not a case that he was not aware of the settle principle of law about communication of grounds of arrest and that is why he has also prepared the same in a separate sheet but prima facie Court is constrained to observe that he has been negligent in either handing over the said grounds of arrest to the arrestee or has negligently missed to obtain his signature in the said document irresponsibly, regarding the arrest illegal.

[13] In view of the above, the bail prayer is allowed. It is ordered that the accused-Sri Raj Kumar Ray, may go on bail on furnishing a bond of Rs.2,00,000/- [Rupees two lakh] only with one surety of the like amount or Rs.1,00,000/- [Rupees one lakh]

only with two sureties of the like amount to the satisfaction of the learned Special Judge, Khowai immediately with the following conditions that:

- (a) the surety should be a resident of Tripura;
- (b) the accused shall not leave the State of Tripura without prior permission of the learned Special Judge;
- (c) he will regularly give his attendance once in a week before the learned Special Judge, Khowai till the said condition is relaxed by learned Special Judge for any special reason;
- (d) he will not try to influence or terrorize any of the witnesses of the case;
- (e) he will not try to make any contact with any witnesses of the case directly or indirectly;
- (f) he will regularly attend the Court to face trial;
- (g) he will provide the address of his stay in Tripura and his mobile phone number to the learned Special Judge and also to the police officer who has investigated the case.

[14] The instant application is accordingly disposed of.

Return the Trial Court record.

Communicate copy of this order forthwith to learned Special Judge, Khowai.

Copy of this order be communicated to Director General of Police for taking note of this remissness on the part of the arresting officer, as prima facie found.

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

JUDGE

