

**HIGH COURT OF TRIPURA
A G A R T A L A**

B.A. No.10 of 2026

&

B.A. No.22 of 2026

In B.A. No.10 of 2026

Smt. Rupam Debbarma

wife of Sri Atul Debbarma, aged about 38 years,
resident of Nailabari, P.S. Champahour,
District- Khowai Tripura

..... Applicant(s)

On behalf of:

Sri Atul Debbarma

son of Sri Aditya Debbarma, aged about 34 years,
resident of Nailabari, P.S. Champahour,
District- Khowai Tripura

..... Accused person(s)

By Advocate:

Mr. S. Lodh, Advocate

- V e r s u s -

The State of Tripura

By Advocate:

Mr. R. Datta, PP

In B.A. No.22 of 2026

Smt. Gita Rani Singh

wife of late Prafulla Chandra Singh,
resident of Paharmura, Bazartilla, P.S. Khowai,
District- Khowai Tripura

..... Applicant(s)

On behalf of:

Sri Pratap Chandra Singh

son of Sri Pradip Chandra Singh, resident of
Paharmura, Bazartilla, P.S. Khowai, District-
Khowai Tripura

..... Accused person(s)

By Advocate:

Mr. A. Acharjee, Advocate

- V e r s u s -

The State of Tripura

By Advocate:

Mr. R. Datta, PP

..... Respondent(s)

Date of hearing : 06.02.2026

Date of delivery of judgment and order : **09.03.2026**

Whether fit for reporting :

Yes	No
✓	

HON'BLE MR. JUSTICE S. DATTA PURKAYASTHA

JUDGMENT & ORDER

Both the bail applications are heard together and are being disposed of by this common order, as same have arisen out of a single police case.

[2] On 12.07.2025, S.I. Francis Halam lodged one FIR at Khowai Police Station stating that based on a secret information that a drug deal was about to take place in the house of one Sri Pradip Chandra Singha at Paharmura, Bazartilla, he noted the information in writing in the GD book and took authorization from the O/C, Khowai P.S. to conduct raid and search. Thereafter, he accompanied with other police personnel raided the house of said Pradip Chandra Singha and found the main door of the house was open and total four persons including one woman were sitting on the floor, counting money and packing suspected heroin. Those persons disclosed the name of the house owner to be said Pradip Chandra Singha who somehow fled away from the spot. The informant thereafter detained his son Pratap Chandra Singha (one of the present petitioners), wife Smt. Anjana Das Singha and another person, namely Atul Debbarma (one of the present petitioners). The informant called one independent witness there. Meanwhile, Executive Magistrate and SDPO, Khowai also arrived at the spot and on search, they recovered total 9.20 grams of suspected heroin kept in one pouch and in some vials. They also recovered Rs.10,385/- of Indian currency note kept on the floor of that hut. He seized those items by preparing a seizure list, arrested accused persons and then lodged the FIR.

[3] The FIR was registered as Khowai P.S. case No.33/2025 under Sections 21(b)/25/27-A/29 of Narcotic Drugs and Psychotropic Substances Act [for short, the NDPS Act]

[4] The police authority carried out the investigation and finally, the Investigating Officer, namely S.I. Sri Ranjit Sarkar laid the charge-sheet against all of them including one Bhuban Sarkar under Sections 21(b)/25/27-A/29 of the NDPS Act and also simultaneously prayed for custody trial of all the accused persons.

[5] Both the accused persons are in custody since their arrest on 12.07.2025 and their production before the learned Court on 13.07.2025. The charges in this case are already framed by the learned Special Judge, Khowai, Tripura under Sections 21(b)/25/27-A/29 of the NDPS Act and out of total 22 numbers of cited witnesses, the prosecution already examined 15 witnesses.

[6] Both Mr. S. Lodh, learned counsel appearing for the accused person in B.A. No.10 of 2026 and Mr. A. Acharjee, learned counsel appearing for the accused person in B.A. No.22 of 2026 submit that there is no material available in the record to attract Section 27-A of the NDPS Act and even the witnesses already examined have also not disclosed anything as such to attract Section 27-A of the NDPS Act. According to them, when there is no material to attract Section 27-A of the NDPS Act, rigour of Section 37 of the NDPS Act will also not be applicable in this case and as for a considerable period i.e. for more than 6[six] months they are in custody, bail may be granted to both the accused persons on any condition.

[7] Mr. R. Datta, learned PP appearing for the State strongly opposes the prayer submitting that already charge is framed under Section 27-A of the

NDPS Act and the accused persons have not challenged the same. Therefore, Section 37 of the NDPS Act will apply in this case.

[8] After taking into consideration the submissions of both sides, the Court has gone through the statements of witnesses as were recorded by the investigating officer and also the testimonies of witnesses recorded in the Court who are already examined. The materials as surfaced in the record are that intermediate quantity of heroin were recovered from the said house where all the accused persons, except Bhuban Sarkar, were found dealing with contraband narcotic items and Rs.10000/- was also recovered from the floor of the said hut where they were found sitting.

[9] Now the next question arises whether recovery of said amount of money can constitute the offence under Section 27-A of the NDPS Act and whether the same can be termed as “financing” in such dealings.

[10] In other words, what is the purport and meaning of the word “financing” as used in Section 27-A of the NDPS Act and whether the ingredients of Section 27-A are available in this record.

[11] In United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988, the countries participated in the convention at that time were deeply concerned by the magnitude of and rising trend in the illicit production of, demand for and traffic in narcotic drugs and psychotropic substances, which posed a serious threat to the health and welfare of the human beings and was also simultaneously affecting the economic and political culture of the society adversely. Therefore, certain resolutions were adopted to promote cooperation among the participant countries so that they might combat against the illicit trafficking of drugs and psychotropic substances effectively in the international dimension.

[12] In Article 3 (1) (a) of the said declaration, the following resolutions were adopted:

**Article 3
OFFENCES AND SANCTIONS**

1. Each Party shall adopt such measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally:

- a) i) The production, manufacture, extraction; preparation, offering, offering for sale, distribution, sale, delivery on any terms whatsoever, brokerage, dispatch, dispatch in transit, transport, importation or exportation of any narcotic drug or any psychotropic substance contrary to the provisions of the 1961 Convention, the 1961 Convention as amended or the 1971 Convention;
- ii) The cultivation of opium poppy, coca bush or cannabis plant for the purpose of the production of narcotic drugs contrary to the provisions of the 1961 Convention and the 1961 Convention as amended;
- iii) The possession or purchase of any narcotic drug or psychotropic substance for the purpose of any of the activities enumerated in i) above;
- iv) The manufacture, transport or distribution of equipment, materials or of substances listed in Table I and Table II, knowing that they are to be used in or for the illicit cultivation, production or manufacture of narcotic drugs or psychotropic substances;
- v) The organization, management or financing of any of the offences enumerated in i), ii), iii) or iv) above;

[13] The word “financing” with the words ‘organisation’ and ‘management’ of any of the offences enumerated above, found place in the said resolution in the above said wordings.

[14] Thereafter, Narcotic Drugs and Psychotropic Substances Amendment Bill, 1988 was introduced and during debate in Rajya Sabha (Council of States) after the said bill was passed in Lok Sabha, the then Hon'ble Minister of State in the Department of Revenue in the Ministry of Finance addressed some salient features of the proposed amendment bill, wherein it was noted that financing in illicit traffic and harbouring of drug offenders would be offences liable for punishment at the same level as per drug traffic offences. Subsequently, Narcotic Drugs and Psychotropic

Substances Amendment Act, 1988 was brought into force, whereby Section 27-A was introduced. Said provision of Section 27A, as it stands now, reads as under:

27-A. Punishment for financing illicit traffic and harbouring offenders.—

Whoever indulges in financing, directly or indirectly, any of the activities specified in sub-clauses (i) to (v) of clause (viii-b) of section 2 or harbours any person engaged in any of the aforementioned activities, shall be punishable with rigorous imprisonment for a term which shall not be less than ten years but which may extend to twenty years and shall also be liable to fine which shall not be less than one lakh rupees but which may extend to two lakh rupees:

Provided that the court may, for reasons to be recorded in the judgment, impose a fine exceeding two lakh rupees.

[15] Said provision originally referred to the activities specified in sub-Clauses (i) to (v) of Clause (viii-a) of Section 2 of the NDPS Act in respect of “financing” and therefore, the said provision also requires a reference. The said provision of Clause (viii-a) in Section 2 of NDPS Act has now been re-lettered as Clause (viii-b) which defines “illicit traffic” more or less in the same line as was adopted in the United Nations Convention as reflected earlier. The said provision of Clause (viii-b) of Section 2 of NDPS Act reads as under:

(viii-b)“illicit traffic”, in relation to narcotic drugs and psychotropic substances, means-

(i) cultivating any coca plant or gathering any portion of coca plant;

(ii) cultivating the opium poppy or any cannabis plant;

(iii) engaging in the production, manufacture, possession, sale, purchase, transportation, warehousing, concealment, use or consumption, import inter-State, export inter-State, import into India, export from India or transshipment of narcotic drugs or psychotropic substances;

(iv) dealing in any activities in narcotic drugs or psychotropic substances other than those referred to in sub-clauses (i) to (iii);
or

(v) handling or letting out any premises for the carrying on of any of the activities referred to in sub-clauses (i) to (iv);

other than those permitted under this Act, or any rule or order made, or any condition of any licence, term or authorisation issued, thereunder, and includes—

(1) financing, directly or indirectly, any of the aforementioned activities;

(2) abetting or conspiring in the furtherance of or in support of doing any of the aforementioned activities; and

(3) harbouring persons engaged in any of the aforementioned activities;

[16] The activity like illegal purchase as mentioned under the provision of sub-clause (iii) of Section 2(viii-b) is taken care of by separate penal provisions enumerated in the Act and such activity also involve monetary transactions. Therefore, “financing” should be interpreted and understood keeping in mind above said legislative history and intent.

[17] According to Black’s Law Dictionary, 9th edition, the word “financing” means to raise or provide funds. As per Webster’s New World Dictionary, the word “financing” means and (i) to supply money for or (ii) to manage the money of; and as per K.J. Aiyar Judicial Dictionary, 16th Edition, the word “financing” when used as a verb, it carries the meaning ‘to supply money for a certain purpose’. On the other hand, as per Black’s Law Dictionary, the word ‘invest’ in verb form in this context means to apply (money) for profit; as per Webster’s New World Dictionary, it means to put (money) into business, real estate, stocks, bonds etc. for the purpose of obtaining an income or profit, and as per K J Aiyar’s Judicial Dictionary, it means ‘to apply money in the purchase of some property from which interest or profit is expected’. There are some differences between the words ‘applying of money’ and ‘supplying of money’. Section 27-A deals with the issue of financing. To carry out any of the activities as mentioned in section 2(viii-b) of the Act, one is required to invest money from his own or get the finance from some other person(s). There are several penal provisions in the Act which take care of the situation where one or more such activities are performed by way of investment of one’s own money. But where somebody supplies money for the same, certainly he would come within the gamut of section 27-A of the Act. Procurement of any narcotic item or psychotropic substance for one’s own consumption is also made punishable separately under section 27 of the Act.

[18] The Bombay High Court in the case of **Rhea Chakraborty vs. Union of India, 2020 SCC OnLine Bom 990** has observed that simply providing money for a particular transaction or other transactions will not be financing of that activity. Financing will have to be interpreted to mean to provide funds for either making that particular activity operational or for sustaining it. It is also observed that it is the financial support which directly or indirectly is cause of existence of such illicit traffic and therefore, the word "financing" would necessarily refer to some activities involving illegal trade or business. However, said order was challenged before the Hon'ble Supreme Court in **Union of India v. Rhea Chakraborty & anr., Special Leave to Appeal (Crl.) No.(s). 2127 of 2021** and Hon'ble Supreme Court vide order dated 18.7.2023 has observed that the question of law raised therein, is left open to be considered in an appropriate case and as such, *the judgment of the High Court shall not be treated as a precedent for any other case.*

[19] The Division Bench of Calcutta High Court in the case of **Rakesh Singh @ Rakesh Kumar Singh vs. the State of West Bengal**, in CRM 3152 of 2021 decided on 24.11.2021 observes that one solitary transaction concerning contraband items would not amount to financing illicit traffic in narcotics. These are also observed that the word "trafficking" connotes continuous flow and there has to be some degree of continuity and regularity in drug dealing before a person can be said to be trafficking in drugs. Similarly, financing illicit traffic would necessarily mean doing so on a regular or continuous basis. It is much more than purchasing or selling contrabands items on one occasion and a solitary transaction would not fall within the mischief of section 27-A of the Act. While deciding so, the Calcutta High Court also referred the decision of **Rhea Chakraborty's** case. However, decision of Calcutta High Court was prior to the order passed by Hon'ble Supreme Court in **Union of India v. Rhea Chakraborty & Anr., Special Leave to Appeal**

(Crl.) No.(s). 2127 of 2021. In **Rakesh Singh's case**, there was no recovery of any contraband item from the possession of the petitioner or from any place over which he has any control. 76 grams i.e. of intermediate quantity of cocaine was recovered from other three persons who were travelling in a car at that time. But they were ultimately not charge-sheeted though FIR was lodged against them. The investigating agency totally changed their case from what were alleged in the FIR and they later on claimed that the accused Rakesh Singh had planted the contraband in their car to put them in trouble.

[20] The order of the Calcutta High Court was challenged before the Hon'ble Supreme Court by the State Government in **State of West Bengal vs. Rakesh Singh @ Rakesh Kumar Singh, [2022] 14 SCR 538** and the Apex Court taking notes of above said facts dismissed the appeal. The relevant portion of the observations of Hon'ble Supreme Court is extracted hereunder:

16.3. Once the veracity of the prosecution case against the respondent is in serious doubt, further analysis on the other factors about financing the drug trafficking and harbouring of offender need not be undertaken because, when the story of planting of contraband is removed out of consideration, all other factors by which respondent is sought to be connected with such alleged planting could only be regarded as false and fanciful, at least at this stage.

16.4. Hence, suffice it to observe for the present purpose that in the given set of facts and circumstances, the High Court has rightly found that applicability of Section 27A NDPS Act is seriously questionable in this case. That being the position; and there being otherwise no recovery from the respondent and the quantity in question being also intermediate quantity, the rigours of Section 37 NDPS Act do not apply to the present case.

17. After the discussion aforesaid, we are constrained to reiterate that the High Court has dealt with this part of the matter without much elaboration and rightly so, for only the prayer of bail being under consideration. However, we have considered it appropriate to delve farther in the matter in view of the submissions made and material presented before us. In any case, for what has been discussed hereinabove, the result precisely remains the same as indicated by the High Court, that diametrically opposite case in the charge-sheet than that alleged in FIR gives rise to serious doubt on the veracity of the prosecution case against the respondent. In this view of the matter, the other part of submissions and reference to the cases of Md. Nawaz Khan and Rhea Chakraborty (supra) do not require much elaboration. As aforesaid, when the case against the respondent of getting the contraband planted in the vehicle in question is prima-facie disbelieved because of material available

on record, the questions concerning possession of contraband, its quantity or financing are all rendered redundant.....

[21] The High Court of Jammu & Kashmir and Ladakh in the case of **Mohd. Aslam vs. Union Territory of Jammu & Kashmir** in CRM (M) No.157 of 2025 in connection with Bail App. No.297 of 2024 decided on 19.08.2025 expresses the view that “finance”, in essence means to facilitate economic activity and growth by enabling somebody to secure the funding, he needs to operate and expand an activity. On the other hand, a sale consideration or a payment made for a particular transaction would not tantamount to “financing”. Therefore, finance of ‘illicit traffic’, within the meaning of Section 27-A of NDPS Act, connotes drug peddling on regular and continuous basis, different from illicit sale/purchase of contraband items.

[22] Again, the High Court of Jammu & Kashmir and Ladakh in the case of **Mazeed Ali vs. U.T. of J & K through Station Officer Police Station Majalta, Udhampur, Bail App No.368 of 2025/ CrI.M. No.2286 of 2025**, decided on 09.02.2026 has observed as under:

15. It is manifest, as such, from aforesaid definitions that all the activities mentioned in clause 2 (viii b) (iii), and Section 27-A NDPS Act involve monetary transactions. In other words, there is use of money in sale and purchase and also in financing. However, financing, in common parlance, would mean providing funds to facilitate the activities contained in sub clauses (i) to (v) of clause (viii b) of Section 2 of NDPS Act and involves the activities other than sale or purchase of narcotic drugs or psychotropic substances.

16. A Financer being skilled in financial transactions would often lend, invest or raise capital to sustain a particular activity. He is not privy to the activity or a sale transaction. Thus, “Finance”, in essence means to facilitate economic activity by enabling somebody to secure the funds, he needs to operate. On the other hand, a sale consideration or a payment made for a particular transaction would not amount to “financing”.

In both the cases, the High Court of Jammu & Kashmir and Ladakh has taken note of the decision of Bombay High Court in *Rhea Chakraborty’s* case.

[23] Kerala High Court in the case of **Ashraf vs. State of Kerala, 2009 SCC OnLine Ker 6502** observes that the expression “financing” is not related to the payment of the value of the narcotic drug. It involves an activity other than sale or purchase of the narcotic drug, in which a person invests or provides funds or resources for facilitating the activities mentioned in sub-cl. (i) to (v) of cl. (viii) of S. 2 of the NDPS Act. The word “financing” involves the presence of a party who is not a party to the sale of the drug.

[24] **The Punjab and Haryana High Court** in the case of **Sukhchain Masih @ Lalla vs. State of Punjab, CRM-M-54246-2025**, decided on 14.11.2025 has held as under:

“20. Section 27-A and 2(viii) of the NDPS Act nowhere, directly or indirectly, mentions any cash found along with the contraband as “Drug Money” or “Proceeds of Drug Sale”. Since the legislature did not use the term “Drug Money” in §27-A or 2(viii) of the NDPS Act, this Court cannot import such words because apparently the usage looks like a folly. Before invoking §27-A of the NDPS Act, one needs to show that the said money was to be used to finance the illicit traffic of drugs. Even when, along with contraband, any money or sovereign metal, etc., is recovered, §27-A does not permit an investigator to treat such money, etc., automatically, as “financing illicit traffic”.

[25] Further, in paragraph Nos.40 and 51 of said decision, the followings were observed:

40. The lack of evidence of "financing illicit traffic" would militate strongly against the application of Section 27A. It must be confined to conduct that demonstrates sustained or structural support for the trafficking network, rather than mere transactional-level procurement or consumption. If there is prima-facie sufficient evidence of illicit financing of drug trafficking, then even the recovery of the drug or the drug money is not a statutory condition precedent for invoking Section 27A.

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51. Section 27-A is specific, restrictive, and requires concrete evidence of financing or harboring, and the statutory ingredients require either the active provision of resources for illicit traffic or the sheltering of offenders, and in countenance, whenever any Investigating agency invokes the stringent provisions of Section 27A, the possibility is writ large that mischief is being carried out to make the offence non-bailable and bail difficult by triggering the legislative restrictions placed on bail through Section 37 of the NDPS Act.

[26] Therefore, what emerges from the above said discussions, whenever any amount is directly or indirectly funded by a person in carrying out any of the activities as mentioned in section 2(viii-b) of the Act by some other person(s), such funding is treated as financing and it comes within the sweep of Section 27-A of the Act and if any such activity is performed or accomplished by a person by his own investment, generally it does not attract section 27-A of the Act.

[27] In view of the position of law as discussed above, let us examine the present case in hand for a very limited purpose to determine the merit of these bail applications.

[28] On perusal of the materials placed in the record, it appears that none of 15 [fifteen] numbers of witnesses as already examined in the Court have stated anything about the "financing" by any of these two accused persons in the said drug deal. Out of rests, 7[seven] numbers of unexamined witnesses as cited in the charge-sheet, only statements of 3[three] witnesses, namely Sri Abhijit Debnath [Upa-Pradhan], Sri Madan Sarkar [Sub Inspector of Police] and Er. Pritam Chakma [Manager of TSECL] were recorded by the investigating officer and two of them namely, Sri Abhijit Debnath and Sri Madan Sarkar have only stated that the accused persons were involved in drug trafficking but they have not stated anything specifically about any sort of "financing" by any of these two accused persons. Therefore, there is no prima-facie material to invoke Section 27-A of the NDPS Act against the present accused petitioners and as such rigour of section 37 of the Act will not be applicable against these two persons. Admittedly, this is a case concerning intermediate quantity of psychotropic substances and both the accused persons are in custody for a period of 7[seven] months. The maximum numbers of witnesses are already examined in this case and their evidences

are also recorded by the Court. The accused persons are permanent residents of their given addresses.

[29] Considering thus, the bails prayers of both the accused persons, namely Sri Atul Debbarma and Sri Pratap Chandra Singh are allowed. They may go on bail on furnishing a bond of Rs.1,00,000/- [Rupees One lakh only] each along with one surety of the like amount to the satisfaction of the learned Special Judge, Khowai on conditions that (i) the sureties must be the permanent resident of Tripura; (ii) the accused persons will regularly attend the Court to face the trial (iii) they will not leave the State of Tripura without prior permission of the learned Special Judge, Khowai and such permission can be accorded by the learned Special Judge only on any special ground (iv) they will not terrorise or influence the unexamined witnesses of the case; and (v) they will also record their attendance before the learned Special Judge, Khowai once in a week till the trial is completed or unless their such attendance is dispensed with by Ld. Special Judge.

It is clarified that what are discussed herein above concerning the evidences and materials available in the record are discussed for very limited purposes to decide the merit of these bail applications and same will have no bearing in the charge already framed and in the trial.

With such observation and directions, these bail applications are disposed of.

Reconsign the records of the learned trial Court along with a copy of this order immediately.

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

JUDGE