

**HIGH COURT OF TRIPURA
AGARTALA**

BA No.42 of 2026

Smt. Jaya Rani Debbarma,
Wife of Sri Bishu Kumar Tripura
(Aged about 33 years),
Resident of Rampadapara (Larmai),
P.S. Melaghar, District: Sepahijala,
PIN:799 103

-----**Applicant**

Sri Bishu Kumar Tripura,
Son of Sri Malindra Kumar Tripura,
(Aged about 55 years),
Resident of Rampadapara (Larmai),
P.S. Melaghar, District: Sepahijala Tripura,
PIN:799 103

-----**Custody Accused Person**

-Vs-

The State of Tripura
(Represented by the Secretary,
Home Department),
Government of Tripura, Agartala

---**Respondent**

For Applicant(s)	:	Mr. Janardhan Bhattacharjee, Adv. Mr. Sajib Ghosh, Adv. Mr. Subhradip Sharma, Adv.
For Respondent(s)	:	Mr. Raju Datta, P.P.

HON'BLE MR. JUSTICE BISWAJIT PALIT

Order

20/03/2026

This bail application under Section 483(1) of BNSS is filed for granting bail to the accused in custody namely Sri Bishu Kumar Tripura in connection with Melaghar P.S. Case No.2025/MLG/002 registered under Sections 20(b)(ii)(c)/25/29 of NDPS Act, 1985.

Heard Learned Counsel Mr. J. Bhattacharjee along with Mr. S. Ghosh, Learned Counsel appearing for the accused in custody and also heard Learned P.P. Mr. Raju Datta appearing for the State.

Taking part in the hearing Learned Counsel Mr. Bhattacharjee drawn the attention of the Court that the present accused is lodging in custody for a period of 311 days. Another bail application was filed earlier on behalf of the said accused which was rejected by this Court by the order dated 28.08.2025 in connection with B.A. No.70 of 2025. In the meantime chargesheet is submitted and by order dated 24.07.2025 cognizance of offence punishable under Section 20(b)(ii)(c)/25/29 of NDPS Act was taken against the said accused and the case is posted for examination of the witnesses of the prosecution and the prosecution in this case up to this stage has adduced in total seven nos. of witnesses but none of the witnesses could say anything regarding involvement of the accused with the alleged offence. Learned Counsel further submitted that in this case prosecution cited all the officials of ED and Police as witnesses in this case but nearby the alleged P.O. there were so many residences/dwelling huts but none of those persons have cited as witnesses in this case. It is further submitted by Learned Counsel that one woman witness namely Smt. Debalina Roy is examined as PW-2 but she was not present to the P.O. at the time of alleged occurrence and furthermore she was not present to the P.O. at the time of alleged seizure and she was brought to the office of ED and thereafter she was brought to another police station. So no reliance can be placed upon her evidence. It was further submitted by Learned Counsel that from the report of Tehsildar it appears that the alleged P.O. from where the contraband item was seized is a government land, so the prosecution could not

establish the conscious possession of the accused over the seized item and finally Learned Counsel submitted that there is no chance of conviction of the accused in this case and considering the long period of incarceration of the accused in custody he may be released on bail in any condition. Reliance was placed upon one judgment of Hon'ble the High Court of Kolkata and High Court of Rajasthan and submitted that long incarceration is a good ground for releasing the accused on bail where embargo of Section 37 of NDPS Act would not apply. It was further submitted that as there was no contraband item found from the possession of the accused so there is no scope to detain the accused furthermore in custody and urged for releasing the accused on bail in any condition.

Learned P.P. strongly countered the submission of Learned defence Counsel representing the accused in custody and submitted that in this case on the point of 'grounds of arrest', this Court earlier rejected the bail application filed by the accused. Furthermore, according to Learned P.P., the Learned Defence Counsel could not explain the report of Tehsildar in clear terms before the Court because according to Learned Counsel for the accused the land where the dwelling huts was found belonging to the Government, but as per report of Tehsildar that land was occupied by the accused in custody and furthermore in presence of independent witness i.e. PW-2 the contraband item was seized and also Learned Counsel failed to satisfy that the ingredients of Section-37 would not attract in this case and as such there is no scope to grant bail to the accused at this stage.

Learned P.P. in this regard relied upon one citation of the Hon'ble Supreme Court of India in **Union of India vs. Vigin K Varghese** reported in **2025 SCC OnLine SC 2440** wherein in para Nos.17 and 18, Hon'ble the Apex Court observed as under:

"17. The High Court then, on the strength of those premises, recorded a finding that there exist reasonable grounds to believe that the applicant is not guilty of the alleged offence, treating prolonged incarceration and likely delay as the justification for bail. Such a finding is not a casual observation. It is the statutory threshold under Section 37(1)(b)(ii) which would disentitle the discretionary relief and grant of bail must necessarily rest on careful appraisal of the material available. A conclusion of this nature, if returned without addressing the prosecution's assertions of operative control and antecedent involvement, risks trenching upon appreciation of evidence which would be in the domain of trial court at first instance.

18. This Court ordinarily shows deference to the discretion exercised by the High Court while considering the grant of bail. However, offences involving commercial quantity of narcotic drugs stand on a distinct statutory footing. Section 37 enacts a specific embargo on the grant of bail and obligates the Court to record satisfaction on the twin requirements noticed above, in addition to the ordinary tests under the Code of Criminal Procedure."

Relying the same Learned P.P. submitted that long incarceration is not a ground for releasing the accused on bail.

Reliance was placed upon another judgment of the Supreme Court in **Rizwan Khan v. State of Chhattisgarh** reported in **(2020) 9 SCC 627**, wherein in para No.12, Hon'ble the Apex Court observed as under:

"12. It is settled law that the testimony of the official witnesses cannot be rejected on the ground of non-corroboration by independent witness. As observed and held by this Court in catena of decisions, examination of independent witnesses is not an indispensable requirement and such non-examination is not necessarily fatal to the prosecution case [see Pardeep Kumar [State of H.P. v. Pardeep Kumar, (2018) 13 SCC 808 : (2019) 1 SCC (Cri) 420]]."

Referring the same Learned P.P. submitted that in absence of independent public witness also there is scope for conviction of the accused.

He also referred another citation of the Hon'ble Supreme Court of India in **Narcotics Control Bureau v. Mohit Aggarwal** reported in **(2022) 18 SCC 374**, wherein in para No.19, Hon'ble the Apex Court observed as under:

"19. In our opinion the narrow parameters of bail available under Section 37 of the Act, have not been satisfied in the facts of the instant case. At this stage, it is not safe to conclude that the respondent has successfully demonstrated that there are reasonable grounds to believe that he is not guilty of the offence alleged against him, for him to have been admitted to bail. The length of the period of his custody or the fact that the charge-sheet has been filed and the trial has commenced are by themselves not considerations that can be treated as persuasive grounds for granting relief to the respondent under Section 37 of the NDPS Act."

Referring the same he has submitted that long incarceration in jail cannot be a ground to release the accused on bail.

He further referred one judgment of a Co-ordinate Bench of this High Court in **State of Tripura, represented by the Secretary to the Government of Tripura v. Mijanur Rahaman** reported in **2024 SCC OnLine Tri 447**, wherein in para Nos.10 and 11, this Court observed as under:

"10. In the case of Narcotics Control Bureau v. Mohit Aggarwal, 2022 SCC OnLine SC 891, a three-Judge Bench of the Hon'ble Supreme Court held that—

"14. To sum up, the expression "reasonable grounds" used in clause (b) of Sub-Section (1) of Section 37 would mean credible, plausible and grounds for the Court to believe that the accused person is not guilty of the alleged offence. For arriving at any such conclusion, such facts and circumstances must exist in a case that can persuade the Court to believe that the accused person would not have committed such an offence. Dovetailed with the aforesaid satisfaction is an additional consideration that the accused person is unlikely to commit any offence while on bail.

15. We may clarify that at the stage of examining an application for bail in the context of the Section 37 of the Act, the Court is not required to record a finding that the accused person is not guilty. The Court is also not expected to weigh the evidence for arriving at a finding as to whether the accused has committed an offence under the NDPS Act or not. The entire exercise that the Court is expected to

undertake at this stage is for the limited purpose of releasing him on bail. Thus, the focus is on the availability of reasonable grounds for believing that the accused is not guilty of the offences that he has been charged with and he is unlikely to commit an offence under the Act while on bail."

Thereafter, the Hon'ble Supreme Court at para 18 of the said judgment held that:—

"18. In our opinion the narrow parameters of bail available under Section 37 of the Act, have not been satisfied in the facts of the instant case. At this stage, it is not safe to conclude that the respondent has successfully demonstrated that there are reasonable grounds to believe that he is not guilty of the offence alleged against him, for him to have been admitted to bail. The length of the period of his custody or the fact that the charge-sheet has been filed and the trial has commenced are by themselves not considerations that can be treated as persuasive grounds for granting relief to the respondent under Section 37 of the NDPS Act."

11. On careful consideration of the above enunciation of law, I can easily hold that mere filing of charge-sheet is not a ground at all or has no persuasive value to grant bail to an accused of allegedly committing offence under the penal provisions of NDPS Act. The materials available on records do not suggest anything that there are reasonable grounds to believe that the accused is not guilty of committing the alleged offence under Sections 20(b)(ii)(c)/25/29 of the NDPS Act."

Referring the same he also submitted that the aforesaid citations squarely cover this case.

The prosecution case in short is that on 10.01.2025 one SI Uttam Paul, UB of Melaghar PS laid an FIR to O/C Melaghar Police Station alleging inter alia that on that day at about 1010 hours the 8 O/C of the concerned PS received one secret information from one Pankaj Goyat, Assistant Director of Aizwal Sub-zonal office Guwahati, ED, Ministry of Finance that on that day they conducted search in the house of Bishu Kumar Tripura at Larmai Bari, PS Melaghar in connection with File No.ECIR/AGSZO/04/2022 under the provision of Prevention of Money Laundering Act, 2002. That time they have found some suspected psychotropic substance to the residence of said Bishu Kumar Tripura. They also requested to assist their team in "search and seizure" of the said suspected

psychotropic substance. The matter was entered in Police G.D. entry No.11 dated 10.01.2025 and after that O.C. of the concerned P.S. referred the matter to the higher authority in writing to carry out search and seizure. The S.D.P.O. Sonamura gave an authorization and directed to him to take necessary action as per law. Accordingly at about 1040 hours vide Melaghar PS GDE No.14 dated 10.01.2025 the police personnel conducted raid in the house of Bishu Kumar Tripura. At about 1130 hours after arrival to the address they found the staff of Enforcement Directorate already cordoned the said house by CRPF personnel when they found two independent witnesses namely Debalina Roy and Salfa Debbarma who were present at the request of ED. After that as per direction of O/C Melaghar PS he prepared body search memo, pre-search memo and post house search memo in presence of witnesses and apprised them regarding issuance of pre-search memo, body search memo and translated the same into Bengali version. Before that he asked one elderly person who was present who disclosed him as the father of the accused Bishu Kumar Tripura. Then he asked him whether he wants to search or not the raid party in presence of Gazetted Officer. Debasish 9 Saha, O/C Melaghar PS being a Gazetted Officer who was present. But he denied searching of the raid party. However raid party also conducted body of search team by the witness. During search no narcotic article was recovered from the search team. Accordingly the informant along with staff and staff of ED jointly conducted raid and search in the house of Bishu Kumar Tripura after observing all formalities in presence of O/C Melaghar P.S. and two

independent witnesses. During search and raid they recovered one blue colour plastic drum and two nos. white colour sacks when smell of ganja was coming out from those sacks. That time the father of accused informed that Bishu Kumar Tripura stored the same for purpose of selling and after measurement 66 kg of dry ganja was recovered and thereafter after observing all formalities the seizure was made. The accused found to be absconded and accordingly the FIR was submitted to the O/C of the concerned P.S. During investigation the ED team conducted arrest of accused on 13.05.2025 at about 1520 hours and after that he was forwarded to the Court of Learned Special Judge on 14.05.2025 by I/O when on the same date the accused has engaged one Learned Defence Counsel to conduct his defence.

I have heard both the sides at length and perused the record of the Learned Trial Court. In this case the trial is already been commenced. By this time prosecution has adduced seven nos. of witnesses as already stated. I have also noted the submission of Learned Counsel for the accused in custody and also perused the relevant prosecution papers including the report of the Tehsildar. The trial is not yet been concluded. From the report of the Tehsildar it appears that the contraband item was seized from the hut which is being possessed by the accused in custody. So the submission of Learned Defence Counsel that the same was recovered from a government land not the recorded land of the applicant cannot be accepted as a valid defence at this stage regarding non-corroboration of the seizure of the prosecution.

I have also perused the statement of PW-2 i.e. Smt. Debalina Roy who is an employee of the bank. It appears that she categorically stated that at the time of seizure she was present to the P.O. Although she could not say the name of the accused rather disclosed the name of the accused after hearing the same from the officials of ED and Police. So it is quite natural that she does not belong to that locality. There was no scope on her part to disclose the name of the accused. The case is further posted for examination of fresh PWs w.e.f. 07.04.2026 to 16.04.2026 for recording evidence of the rest PWs.

I have also gone through the citations referred by Learned P.P. representing the prosecution and it appears to this Court that those citations have very much relevant for decision of this case and considering the materials on record I do not find any sufficient materials to presume that the embargo of Section-37 of NDPS Act would not be applicable against the present accused at this stage. Hence the bail petition filed by the accused stands rejected.

The accused is to remain in J/C as before.

Learned Trial Court is to proceed with the trial in accordance with law at an earliest.

Send down the record to the Learned Trial Court along with a copy of this order.

Return back the CD to the I.O. through Learned P.P. along with a copy of this order.

The application is thus disposed of.

JUDGE