

ORDER SHEET

IN THE COURT OF SPECIAL JUDGE, SHRI C.G.MOMIN, NDPS,  
DISTRICT WEST JAINTIA HILLS, JOWAI.  
Bail Application No. 8 of 2026 arising out of  
NDPS case No. 1 of 2026

NDPS Case No. 1 of 2026  
State versus Ferdinand M Marak & Ors

| SL. No.<br>Of Order | Date     | Order                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | Signature |
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|                     | 18/06/26 | <p>Cr put up today.</p> <p>Seen the Bail application No.8 / 26 dt 16/06/26 filed by Ld. Counsel, Shri. S. Pandit for the accused person, Shri. Ferdinand M. Marak.</p> <p>Ld. Prosecution, Shri. I. Khyriem for the NCB is also present.</p> <p>Heard the submissions of both the ld. Counsels and also considered the materials on the record.</p> <p>Ld Counsel for the accused stated that in the month of February 2026, accused person, Shri. Ferdinand Marak was served a BWA against him, and later, Accused, was directed by the police to appear before this court on 12/03/26.</p> <p>Ld. Counsel further submitted that in the date so fixed, when he appeared before the Court, but this Court remanded him to 14 days J. custody although there was no formal arrest against the accused person.</p> <p>Ld. Counsel for the accused further relied on para 43 and para 97 of the judgment in Satender Kumar Antil vs CBI.</p> <p>Ld counsel submits that in Satender Kumar Antil’s case it was held that if the accused person was not arrested during the investigation stage and chargesheet filed by IO, then the accused need not re-arrested rather he must be release in formal bail, but in this case, accused was taken into custody by this ld. Court on his appearance,</p> <p>Ld PP files a written objection of the SI, NCB against the present petition in court today.</p> |           |

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|  |  | <p>I have carefully perused the written objection.</p> <p>SI submits that this bail petition is misleading and legally untenable and further submits that this present case arose out of recovery and seizure of 1.957 KG of Methamphetamine tablets on 31/07/25 from the possession of Accused, Shri. Shankar D. Sangma and Terina Sangma above the notified commercial quantity for the said contraband.</p> <p>SI further argued that during investigation he was found to be involved in this case as that of a mediator and conspirator in trafficking of the contraband substances, and for this same reason, repeated notices were issued under s.67 of the NDPS Act to accused.</p> <p>SI further argued that final complaint has been filed in this instant case and the present accused had been impleaded as an accused person and shown as an absconder because the accused had failed to cooperate during the investigation despite repeated notices under s.67 of NDPS Act. On above submissions, SI stated that remanding the accused to J. custody was justified as he shown as an absconding accused in the Final Complaint.</p> <p>SI also raise objection on the ground that there are incriminatory evidence against the present accused under s. 28 and s. 29 of NDPS Act and also this present case is not about a routine possession case but forms a part of a larger, organize and transnational narcotics operation and Judgment in Satender Kumar Antil vs CBI, relied on by the opposite counsel has no bearing on this case, as this case involves commercial quantity where special restrictions under s. 37 of NDPS override general considerations governing grant of bail.</p> <p>Ld PP on above written objection prays that this bail petition may be considered.</p> <p>I have peruse the piecemeal submission of the apparent judgment of Satender Kumar Antil Vs CBI, particularly the pages No. 51,57,97,98,131 by the Ld. Counsel for the accused person.</p> <p>In para 36 of the judgment in Satender Kumar Antil Vs CBI which was wrongly numbered as Para 43 and also entered the wrong page No. as 97 in the judgment filed by ld. Counsel for the accused, but the correct para no of the said judgment is reproduce below for convenience.</p> <p>Para 36. The scope and ambit of <a href="#">Section 170</a> has already</p> |  |
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|  |  | <p>been dealt with by this Court in <a href="#">Siddharth v. State of U.P.</a>, (2021) 1 SCC 676. <b>This is a power which is to be exercised by the court after the completion of the investigation by the agency concerned.</b> Therefore, this is a procedural compliance from the point of view of the court alone, and thus the investigating agency has got a limited role to play. In a case where the prosecution does not require custody of the accused, there is no need for an arrest when a case is sent to the magistrate under <a href="#">Section 170</a> of the Code. There is not even a need for filing a bail application, as the accused is merely forwarded to the court for the framing of charges and issuance of process for trial. <b>If the court is of the view that there is no need for any remand, then the court can fall back upon <a href="#">Section 88</a> of the Code and complete the formalities required to secure the presence of the accused for the commencement of the trial.</b> Of course, there may be a situation where a remand may be required, it is only in such cases that the accused will have to be heard. Therefore, in such a situation, an opportunity will have to be given to the accused persons, if the court is of the prima facie view that the remand would be required. We make it clear that we have not said anything on the cases in which the accused persons are already in custody, for which, the bail application has to be decided on its own merits. Suffice it to state that for due compliance of <a href="#">Section 170</a> of the Code, there is no need for filing of a bail application. This Court in <a href="#">Siddharth v. State of U.P.</a>, (2021) 1 SCC 676, has held that:</p> <p>“There are judicial precedents available on the interpretation of the aforesaid provision albeit of the Delhi High Court.</p> <p><b><i>Upon careful examination of the submission of Ld counsel for the accused, it appears that the learned Counsel was laboring under a misconception that accused person is impleaded in this matter purely under BSA(old code: IPC) with general safeguards of BNSS (old code: CrPC) relating to non-bailable and cognizable offence.</i></b></p> <p><b><i>It may be relevant to mention that this matter relates to NDPS which is a special Act, and have its own safeguards and special provisions under s. 37 of the NDPS. Therefore, the Judgment relied on by Ld counsel for the accused holds no water to this instant case as the allegations against the present accused involves a serious offence under section 27A of NDPS and also relates to offences involving commercial quantity</i></b></p> <p><b><u><i>From bare perusal of Section 37(1)(b) of NDPS Act, it is clear that this provisio specifically lays down that no person accused of an offence punishable for offences under section 19 or section 24 or</i></u></b></p> |  |
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|  | <p><b><u>section 27A and also for offences involving commercial quantity shall be release on bail or on his own bond unless, (i) Public prosecutor has been given an opportunity to oppose the application for such release, and (ii) where Public Prosecutor opposed the application, the court is satisfied that there are reasonable grounds for</u></b></p> <p><b><u>believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail.</u></b></p> <p><b><u>Again, it would be relevant to reiterate that Subsection 2 of Section 37 mandates that this limitations on granting bail are in addition to the limitations under the code of criminal procedure</u></b></p> <p>It could also be gathered from the fourth proviso to clause (ii) of subsection 1 of Section 437 which clearly <b>Provided</b> that no person shall, if the offence alleged to have been committed by him is punishable with death, imprisonment for life, <b>or imprisonment for seven years or more</b> be released on bail by the Court under this Sub-Section without giving an opportunity of hearing to the Public Prosecutor.</p> <p>Upon careful perusal of the case record, it is evidently clear that the section 27A of NDPS mentioned in section 37 of the same Act had been charged against the present accused in this case. Again, the charge also involves offences relating to the commercial quantity. And not to mention that this case also relates to offences punishable for seven years or more even if the special provisions under section 37 of NDPS is ignored.</p> <p>Therefore, I am of the opinion that at this juncture where the Final Complaint had been submitted, it would serve no purpose to examine the Case Diary to delve into the allegations that accused have been served with BWA and that he had appeared before the police.</p> <p>I also find that in the final complaint there are three accused persons who had absconded during the investigations which includes the present accused person.</p> |  |
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|  |  | <p>It has also been prayed for by the NCB to issue NBWA against the three absconding accused persons and even to grant permission to file additional chargesheet against all the three absconding accused persons as further investigations may be required against them.</p> <p>In light of all the above observations, I am inclined to reject this bail petition.</p> <p>Petition is not allowed and disposed off</p> |  |
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// Note:- This form should be written up in English, Wherever possible (see Vol.1 Chapter III) Rules 22.