

ASKA010001912020



Presented on : 30-07-2020
Registered on : 30-07-2020
Decided on : 27-08-2025
Duration : 05 years
28 days



**IN THE COURT OF
Sessions Judge, Karbi Anglong, Diphu
(Presided Over by Shri Roushan Lal)**

N D P S Act/12/2020

Exhibit No.

Prosecution:

State of Assam
Through Police Station Officer Dillai PS
09, Karbi Anglong

VERSUS

Accused persons:

1. Md. Imran Hussain
Age: 20
Occupation :
S/o: Md. Jamal Hussain,
R.O, Amreghat, PS-Motinagar, Cachar, Assam.

2. Md. Zamal Uddin
Age: 33
Occupation :
S/o: Md. Jalal Uddin,
R/o: Udmari, PS: Juria, Dist: Nagaon, Assam

3. Md. Moin Uddin
Age: 23
Occupation :
S/o: Md. Usmar Ali,
R/o: Naramari Fultola, PS: Sadar, Dist: Nagaon, Assam

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Karbi Anglong, Diphu



4. Musstt. Khusida Begum

Age: 29

Occupation :

W/o: Md. Ramjan Ali,

R/o: Lily Par No. 2 Ciewpar, PS: Kampur, Dist: Nagaon.

PP for State Prosecution : Sri Dilip Kumar Deka, Public Prosecutor.

Advocate for accused Md. Imran Hussain, Md. Zamal Uddin and Md. Moin Uddin: Smt. Konika Biswas.

Advocate for accused Musstt. Khusida Begum: Smt. Rashmi R. Bezbaruah and Ms. Premika Tokbipi.

**Offence punishable under
Section 21(C) read with
Section 29 of Narcotic Drugs
and Psychotropic Substances
Act.**


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JUDGMENT
(Delivered on 27.08.2025)

Sessions Case No. : NDPS Case No. 12/2020
(Under Sections 21(c) read with Section 29 of NDPS Act arising out of GR case No. 89/2020 & Dillai case no. 09/2020.

Complainant : ASI Jiten Gogoi,
Dillai Police Station.

Represented by : Sri Dilip Kumar Deka, Public
Prosecutor, Karbi Anglong,

Accused persons : 1. Md. Imran Hussain, A1
2. Md. Zamal Uddin, A2
3. Md. Moin Uddin, A3 &
4. Musstt. Khusida Begum,
A4


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Represented by : 1. Smt. Konika Biswas,
Advocate of A1, A2 & A3
2. Smt Rashmi R Bezbaruah
& Ms. Premika Tokbipi
Advocate of A4.



Date of Offence 07.03.2020

Date of F.I.R. : 07.03.2020

Date of Charge Sheet : 30.06.2020

Date of Framing of Charges : 06.03.2021

Date of Commencement of
Evidence : 05.01.2022, 23.11.2022,
28.08.2024, 20.11.2024,
20.11.2024 & 19.03.2025,

Date on which Judgment
is reserved : 11.08.2025

Date of Judgment : 27.08.2025

Date of the Sentencing : NA
Order, If any


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**Accused details**

<u>Rank of the accused</u>	<u>Name of Accused</u>	<u>Date of Arrest</u>	<u>Date Release on Bail</u>	<u>Offence Charge with</u>	<u>Whether Acquitted or Convicted</u>	<u>Sentence Imposed</u>	<u>Period of Detention Undergone During Trial For Purpose of Sec. 428 Cr.P.C.</u>
A1	Md. Imran Hussain	07.03.2020	12.09.2022	Under Section 21(c) read with Section 29 of NDPS	Acquitted	NA	2 years 6 months 4 days
A2	Md. Zamal Uddin	07.03.2020	16.06.2020				3 months 8 days
A3	Md. Moin Uddin	07.03.2020	16.06.2020				5 months 2 days
A4	Musstt. Khusida Begum	07.03.2020	10.08.2020				

J U D G M E N T


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1. The accused (i) A1 Md. Imran Hussain, (ii) A2 Md. Zamal Uddin, (iii) A3 Md. Moin Uddin and (iv) A4 Musstt. Khusida Begum have been put to trial for offence under Section 21 (c) read with Section 29 of Narcotic Drugs and Psychotropic Substances Act.



2. This case stems from confidential information received on 07.03.2020 regarding transportation of a Brown Sugar from Dimapur to Manja in a bus bearing registration no. NL-05-B-1157. This information was duly recorded in the General Diary of Dillai Police Station vide **Entry No. 144** dated 07.03.2020.
3. Acting upon this specific intelligence, OC Dillai PS along with his staff rushed to intercept the bus and at 16 mile near Longmili Pvt. Cement Factory on NH36 they succeeded to intercept the said bus. On searching the bus, they found two hand bags, each having 25 small boxes. Inside the total of 50 small boxes, they recovered 12 grams of Brown Sugar.
4. A1 Md. Imran and A4 Musstt. Khusida Begum were carrying the hand bags in the bus. Thereafter, the contraband was seized and packed at the place of occurrence.
5. After completing all necessary procedural formalities, the police officials took the suspects namely Md. Imran Hussain and Musstt. Khusida Begum, the seized contraband, and other pertinent articles towards Dillai Police Station.
6. On the same day, i.e. on 07.03.2020, an FIR detailing the entire incident was lodged by ASI Jiten Gogoi. Based on this FIR, Dillai PS Case No. 09/2020 was registered, and the OC, of Dillai PS entrusted the informant ASI Jiten Gogoi to investigation the case. The seizure lists and sketch map was

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made part of the case diary. The detained individual, A1 Md. Imran and A4 Musstt. Khusida, were formally arrested and interrogated.



7. During the interrogation of the accused A1 and A4, both the accused had disclosed the name A2 Md. Zamal Uddin and A3 Md. Moin Uddin who were also involved with the drug trade and accordingly, on the same day, police personnel had arrested them.

8. The sealed sample was dispatched to the Directorate of Forensic Science Laboratory in Guwahati for analysis. Upon receipt of the forensic report and completion of all necessary formalities, the Investigating Officer filed a Final report/charge sheet vide No. 14/2020 dated 30.06.2020, under Section 21(c) read with Section of NDPS Act against i) A1 Md. Imran Hussain, (ii) A2 Md. Zamal Uddin, (iii) A3 Md. Moin Uddin and (iv) A4 Musstt. Khusida Begum.


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9. Upon receipt of the charge sheet, the instant special case was registered. Cognizance was taken, and copies of the relevant documents were provided to the accused. Subsequently, charge was framed by my learned predecessor in office, under Section 21(c) read with Section 29 of the NDPS Act against (i) A1 Md. Imran Hussain, (ii) A2 Md. Zamal Uddin, (iii) A3 Md. Moin Uddin and (iv) A4 Musstt. Khusida Begum.



10. In support of the charges, the prosecution presented 7 prosecution witnesses. The document exhibited by Prosecution are (i) Seizure lists, (ii) Extract copy of Dillai PS GDE no. 144 dated 07.03.2020, (iii) FIR and (iv) Printed FIR.

11. The version of A1, A2, A3 and A4 is one of total denial. They have stated that they were innocent and has been falsely implicated them in this case.

12. In view of the materials and evidence on record, this Court is now called upon to adjudicate what is summed up in the points of determination as below.

13. POINT FOR DETERMINATION:(i) Whether accused i) A1 Md. Imran Hussain, (ii) A2 Md. Zamal Uddin, (iii) A3 Md. Moin Uddin and (iv) A4 Musstt. Khusida Begum, on 07.03.2020, at 16 mile near Longmili Pvt. Cement Factory on NH36 under Dillai PS in the district of Karbi Anglong, was found in possession of commercial quantity of heroin? **(ii)** Whether A1 and A4 had conspired with A2 and A3 for the transportation of contraband? **(iii)** Whether there is violation of the mandatory procedure under Section 52 A of the NDPS Act

14. DISCUSSION DECISION AND THE REASONS

THEREFOR: I have carefully considered the arguments presented by the prosecution and the defence. I have

examined the evidence presented in this case and the relevant legal provisions. I will begin my analysis with the testimony of the seizure witnesses.

15. Evidence of independent witnesses: Prabin Daimary (PW-1) averred that the occurrence took place on 07.03.2020. On that day, he was driving a 709 passenger bus bearing registration no. NL-05B-1150 from Dimapur. Near Longmili Pvt. Cement Factory on National Highway, police personnel signalled him to stop the bus and accordingly, he stopped. Thereafter, police entered inside the bus and started to check the passengers of the bus. During the search, police found two bags from the possession of one male and one female passengers. On opening the bags, 25 soap cases were recovered from each bag contained suspected heroin. PW-1 further stated that one bag was found over the top of the head bunker and the other was found near the accused persons.

16. PW-1 also deposed that after the recovery, police personnel weighed the materials. Both the accused were detained by the police. Police seized total 50 nos. of small plastic boxes and prepared a seizure list where he put his signature as witness marked as Exhibit-1.

17. During cross-examination, PW-1 testified that on the day of the incident there was no police personnel in the Dillai gate. After crossing the Dillai gate post and before reaching the



Cement factory, two police personnel came on a bike and stopped his vehicle. During the time of search, there were about 20 passengers present inside the bus. There was no lady police officer present at the time of searching the bus. PW-1 further stated that the female accused was sitting a seat ahead of the male accused seat inside the bus. The bag was not found in the hand of the female accused. PW-1 also stated that he could not sat from whom, what bag was recovered.

18. Chandra Sing Teron (**PW-2**) averred that the occurrence took place on 01.03.2020. On that day, he was also a passenger of the bus from where the contraband was recovered. The bus was detained by the police near Longmili Private Cement Factory on National Highway. On searching the bus, police found one bag with the female accused and another bag on her top of the head in the bunker of the bus. At that time, there were no other bag in the bunker. On opening the bags, 25 soap cases were recovered from each of the bag. Police told them that the soap cases contained drugs. Thereafter police tested the drug and prepared a seized list where he put his signature a witness.

19. During cross-examination, PW-2 averred that there were 13 passengers in the bus. Two police personnel came on a bike and stopped the bus. At first, police entered the bus and then asked the passengers to come down from the bus.



20. Smt. Harvi Engtipi (**PW-3**) stated that she has a shop at 16 Mile, Ziadong near cement factory. On the relevant day two police personnel came to her shop and they took her electronic weight machine and on the same day, the police returned her machine. Except that, she knows nothing about the incident.

21. Siddi Zul Alom (**PW-4**) deposed that about 4 years back police had arrested his co-villagers Zamal Uddin. Thereafter, he went to police station where he met the accused Zamal Uddin. At the police station, police asked him to put his signature on a seizure list detailing the seizure of the vehicle of accused Zamal Uddin and accordingly, he put his signature marked as Exhibit-P2/PW4. However, he does not know the reason of arrest of Zamal Uddin.

22. Under cross-examination, PW-4 averred that he does not recognised the other accused persons and does not know the reason of their arrest.

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23. Ms. Moinul Hoque (**PW-5**) averred that on 24.05.2020, some documents were seized in connection with a vehicle belongs to Zamal Uddin. PW-5 put his signature on the seizure list on direction of the police marked as Exhibit-P3/PW5.

24. Under cross-examination, PW-5 stated that he does not know the contents of the seizure list. The seizure list was

not read over to him. The police asked him to put his signature on the seizure list.



25. Evidence of Police Officials: UBC 113 Prasanjit Das **(PW-6)** stated that in the year 2020 he was posted at Dillai PS. In that year, he along with other police staff intercepted a passenger bus at naka checking point. Thereafter, they started to check the bags of the passengers of the bus. At that time, they saw one lady passenger namely Khursida Begum with a bag near her legs. On asking her about the content of the bags, she replied that there were clothes inside that bag. When they opened the bag, ASI Jiten Gogoi (informant) recovered 25 soap cases inside it. ASI Jiten Gogoi then interrogated the lady at the spot and came to know that the brother of that lady Imran Hussain was sitting in next row of seat. Thereafter, they checked the bag that was carried by the brother of the lady and recovered another 25 soap cases inside it. All the 50 soap cases contained powdery substances. The powdery substances were then weighed and found to be 12 grams on each soap case. Later the recovered, powdery substances were packed and sealed and brought to the Dillai PS.

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Karbi Anglong, Diphu.*

- 26.** Under cross-examination, PW-6 stated that during the time of the search OC, Dillai PS was present at the spot.
- 27.** SI Jiten Gogoi **(PW-7)** is the informant of the case. and reiterated the version presented in the FIR. PW-7 testified



about the secret information received regarding transportation of drugs in a bus bearing registration no. NL-05-B-1157, which was recorded vide Dillai PS GD Entry No. 144 dated 07.03.2020. He averred that a police team under the leadership of OC, Dillai PS then proceeded to intercept the bus and after some time, they succeeded to detain the bus at 16 mile near Longmili Private Cement Factory on NH36.

28. PW-7 also stated that on searching the bus, they found 2 bags. One was in the lap of a woman passenger and the other bag was in the upper bunker of the bus. From those two bags, total 50 small boxes were recovered. Each box contained powdery substances weighing about 12 grams. The hand bags were recovered from the possession of two passengers namely Md. Imran Hussain and Musstt. Khusida Begum.

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29. On spot interrogation, the apprehended accused admitted that they carried the contraband for sell. Thereafter, they detained both the accused persons.

30. The contraband was weighed with the help of weighing machine and the total weight was found to be **600 grams**. Thereafter, SI Ranjit Hazarika, OC of Dillai PS prepared a seizure list and packed and sealed the contraband at the spot. After completing the necessary formalities, the

apprehended accused persons along with the seized heroin were taken to Dillai PS where PW-7 lodged the FIR.



31. Under cross-examination, PW-7 testified that the sampling of the seized contraband was not done before the learned Magistrate. SI Ranjit Hazarika had conducted the investigation of the instant case. PW-7 stated that there were many passengers in the bus at the time of recovery of the contraband. PW-7 further stated that he has mentioned in the FIR that there were 50 small boxes containing 12 grams of contraband. However, he has not stated the word 'each' after 12 grams. PW-7 also not stated that one of the bah was found in the lap of the lady accused person. PW-7 admitted that there is no mention of the GD entry number in the printed form of the FIR.

32. Analysis of Evidence: I have perused the record carefully and heard the learned Public Prosecutor, who conceded that IO had not made the samples in presence of the learned Magistrate. The record also goes to show that no inventory was ever prepared.

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33. A trial under the NDPS Act is significantly affected when there is a total non-compliance with the mandatory provisions of Sections 42 and 52A.

34. Section 42 of the NDPS Act deals with the power of an authorized officer to conduct searches and seizures without



a warrant or authorization. The law requires that if an officer has a "reason to believe" that an offence has been committed based on personal knowledge or information received, they must record that information in writing and send a copy of it to their immediate official superior within 72 hours.

35. In the instant case, the preliminary investigation was conducted by an Assistant Sub-Inspector (ASI), while the authorized officer in Assam Police is a Sub-Inspector (SI). This is a critical violation. Under the NDPS Act, only officers specifically empowered by the state or central government can conduct searches and seizures under Section 42. Since an ASI is not an authorized officer for this purpose in Assam, any search, seizure, or arrest conducted by them is illegal from the outset. The very foundation of the investigation is invalid

36. Post the Supreme Court's decision in Union of India V. Mohanlal, **(2016) 3 SCC 379**, the preparation of the representative samples has to be done in presence of the learned Magistrate. It is a mandatory procedure.

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37. Additionally, inventory has to be prepared by the Office-in-Charge/Investigating Officer of the police and inventory has to be certified by the learned Magistrate. This is a guarantee that the seizure list is correct. However, in the

case at hand, these procedures were completely ignored by the investigating officer.

- 38.** I may now point out that in *Bharat Aambale vs. State of Chhattishgarh*, **2025 SCC online (SC) 110**, the Apex Court has laid down that it is mandatory for the investigating agencies to substantially comply with the provision of Section 52A of the NDPS Act.



- 39.** In the present case, I reiterate that there has been total non-compliance of the statutory mandate and on this count only, the prosecution case fails.

- 40.** It now needs a mention that all the independent witnesses i.e. PW-1, PW-2, PW-3, PW-4 and PW-5 are totally silent as to whether the contraband was packed and sealed at the spot or not. The documents submitted with the charge sheet, does not show as to where the contraband was kept after it was seized. The chain of custody is therefore, broken.


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Karbi Anglong, Dima Hasao

41.

I may place on record that nothing was recovered from the possession of A2 Md. Zamal Uddin and A3 Md. Moin Uddin. There is also no leading to discovery of the contraband. These accused persons were arrested on the basis of statement made by A1 Md. Imran Hussain and A4 Musstt. Khusida Begum. The statement of co-accused is inadmissible and cannot be acted upon to hold A2 and A3 guilty of the offences charged. Reliance is placed upon

Supreme Court dicta in Toofan Singh Vs State **(2021) 4 SCC 1.**



42. Conspiracy: The next question is on the charge under Section 29 of the NDPS Act. Prosecution has not proved any agreement between A1 Md. Imran Hussain, A2 Md. Zamal Uddin, A3 Md. Moin Uddin and A4 Musstt. Khusida Begum regarding transportation and smuggling of contraband. I, therefore, conclude that in the absence of any evidence on prior agreement, the charge under Section 29 NDPS Act against A1, A2, A3 and A4 fails.

43. In view of the discussion in the preceding paragraphs, I hold that the prosecution has not been able to prove the charge under Section 21(c) read with Section 29 of the NDPS Act against A1, A2, A3 & A4. Therefore, the charge fail.

44. Accused A1 Md. Imran Hussain, A2 Md. Zamal Uddin, A3 Md. Moin Uddin and A4 Musstt. Khusida Begum are acquitted and set at liberty. The bail bond of the accused persons shall continue for next 6 months.

45. The zimma of Tata Nexon car bearing registration no. AS-02-Z-0959, (Chassis no. MAT62726KLC13045 and Engine no. REVTRN03CPYK27919) along with the original documents, other seized articles and cash amount are hereby made absolute in favour of the registered owner. Destroy the seized heroin, if not already done.

*SPECIAL JUDGE NDPS
Karbi Anglong, Diphu*

46. Inform the learned District Magistrate and learned District Superintendent of Police. Let a copy of Judgment be uploaded in the website of District Judiciary.

47. Given under my hand and seal of this Court on this the 27th August 2025.



Dictated & corrected by me -


(Shri Roushan Lal)
Special Judge (NDPS)
Karbi Anglong
SPECIAL JUDGE NDPS
Karbi Anglong, Diphu


(Shri Roushan Lal)
Special Judge (NDPS)
Karbi Anglong
SPECIAL JUDGE NDPS
Karbi Anglong, Diphu



ANNEXURE

List of Prosecution/ Defence/ Court Witnesses

A. Prosecution:

Sr. No.	Rank	Name	Nature of Evidence
1.	PW-1	Prabin Daimary	Independent witness
2.	PW-2	Chandra Sing Teron	Independent witness
3.	PW-3	Smt. Harvi Engtipi	Independent witness
4.	PW-4	Siddi Zul ALom	Independent witness
5.	PW-5	Md. Moinul Hoque	Independent witness
6.	PW-6	UBC 113 Prasanjit Das	Police witness
7.	PW-7	SI Jiten Gogoi	Informant

B. Defence Witnesses: NA

C. Court Witnesses:

List of Prosecution/ Defence/ Court Exhibits

A. Prosecution:

Sr. No	Exhibit Number	Description
1.	Exhibit-1	Seizure list
2.	Exhibit-P2/PW4	Seizure list
3.	Exhibit-P3/PW5	Seizure list
4.	Exhibit-P4/PW7	Extract copy of GD entry vide no. 144 dated 07.03.2020.
5.	Exhibit-P5/PW7	FIR
6.	Exhibit-P6/PW7	Printed FIR


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- B. Defence Exhibit: NA
- C. Court Exhibit: NA
- D. Material Objects: NA

(Shri Roushan Lal)
Special Judge (NDPS)
Karbi Anglong
SPECIAL JUDGE NDPS
Karbi Anglong, Diphu



ORDER

1. Accused **(i) A1 Md. Imran Hussain, (ii) A2 Md. Zamal Uddin, (iii) A3 Md. Moin Uddin and (iv) A4 Musstt. Khusida** are present along with their engaged counsel.
2. Judgment is written in separate sheet and hereby made part of the record.
3. The operative part is pronounced in the open Court.
4. In the case at hand, prosecution has failed to prove the charges against the accused persons. Therefore, accused **(i) A1 Md. Imran Hussain, (ii) A2 Md. Zamal Uddin, (iii) A3 Md. Moin Uddin and (iv) A4 Musstt. Khusida** are acquitted and set at liberty. The bail bond of the accused persons shall continue for next 6 months.
5. The zimma of Tata Nexon car bearing registration no. AS-02-Z-0959, (Chassis no. MAT62726KLC13045 and Engine no. REVTRN03CPYK27919) along with the original documents, other seized articles and cash amount are hereby made absolute in favour of the registered owner. Destroy the seized heroin, if not already done.


SPECIAL JUDGE NDPS
Karbi Anglong, Diphu.

6. Inform the learned District Magistrate and learned District Superintendent of Police. Let a copy of Judgment be uploaded in the website of District Judiciary.



7. With the above order the case stands disposed of.

Date: **27.08.2025**

Dictated on :27.08.2025
Transcribed on :27.08.2025
Checked on :27.08.2025
Signed on :27.08.2025


(**Shri Roushan Lal**)
Special Judge (NDPS),
Karbi Anglong
SPECIAL JUDGE NDPS
Karbi Anglong, Diphu


(**Shri Roushan Lal**)
Special Judge (NDPS),
Karbi Anglong
SPECIAL JUDGE NDPS
Karbi Anglong, Diphu

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