



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : CRL.A(J)/38/2025

Sh. Zoramchhana
S/o Lalnunzira(L), Tlangsam, Champhai District

VERSUS

The State of Mizoram
Aizawl

Advocate for the Petitioner : Mr H Zodinsanga (Amicus Curiae)

Advocate for the Respondent : P.P./Addl.PP, Mizoram



BEFORE
HON'BLE MRS. JUSTICE SHAMIMA JAHAN

For the appellant : Mr. H. Zodinsanga ... Amicus Curiae.

For the respondent : Ms. Vanneihsiami Addl. P.P.

Date of hearing & Judgment : 17.07.2026.

JUDGMENT AND ORDER (ORAL)

Heard Mr. H. Zodinsanga, learned Amicus Curiae for the appellant. Also heard Mrs. Vanneihsiami, learned Addl. Public Prosecutor for the State.

2. This is a criminal appeal filed by the appellant from Jail challenging the order of conviction dated 19.05.2025 as well as the Sentencing order dated 21.05.2025 passed by the Special Court, ND&PS Act, 1985, Aizawl Judicial District, Aizawl, Mizoram.

3. The appellant had challenged the said order dated 19.05.2025 by which the learned Court had convicted the appellant alongwith the co-accused under Section 21(b) of the ND&PS Act, 1985.

4. The appellant had also challenged the sentencing order as stated above by which the appellant was sentenced to undergo Rigorous Imprisonment for a period of eight months with a fine of Rs.2,50,000/- and in default thereof, to



undergo further Rigorous Imprisonment for another period of one year.

FACTS:

5. The Inspector of Excise and Narcotics, Anti-Narcotic Squad, Aizawl, Mizoram had submitted a report of seizure and arrest before the Officer-in-Charge of the Anti-Narcotic Squad, Excise & Narcotics, Aizawl, Mizoram, wherein it was stated that on 27.2.2025 at around 11:20 pm at Venbuk near Vanapa Hall, the informant seized the articles viz- 14 grams of suspected heroin packed in a transparent polythene kept in a soap box, 1.672 grams of suspected heroin kept in four tic-tac containers as well as a black colour rucksack in which the soap case was kept. It is also alleged that all the articles along with the black rucksack was recovered from the appellant which the appellant had himself handed over to the informant. Thereafter, the appellant along with the co-accused were also arrested in connection with the said case.

6. On receipt of the said information, the police registered the case as Ex.Case No. N-33/2025 dated 28.02.2025 under Section 21(b) of the ND&PS Act, 1985 against the appellant as well as the co-accused.

7. During investigation of the said case, the appellant had made statement under Section 67 of the ND&PS Act wherein he stated that he was earlier in the year 2019 was caught with contrabands and that he was jailed for that offence for 7 months and got released in the month of November 2022. He further stated that thereafter one of his friends from Aizawl asked him for some heroin and he agreed to get it and sell the same to the said friend. He thereafter stated that he went to Myanmar on 26.02.2025 and purchased the contraband



and came to Aizawl to sell the same and invited the co-accused to help him in selling the said contraband. He thereafter stated that he had kept one soap case containing heroin in his bag pack and tic tac containers in his pocket and went ahead to Aizawl for selling the same and that in the process, he and his companion was caught and was arrested.

8. On completion of the investigation, the Excise Department, submitted charge sheet on 22.04.2025. In pursuant to the same, the matter went for charge framing to the Special Court, ND&PS Act, Aizawl Judicial District, Aizawl. During the same, the learned Court upon consideration of record of the case and the documents submitted thereof, framed charge against appellant and co-accused. It is also seen that the appellant had not filed any application for discharge and the learned Court framed the charge under Section 21(b) of the ND&PS Act for violation of the provision, enshrined under Section 8(c) of the ND&PS Act, 1985.

9. After framing of the charge, the said charge was read over, and the appellant was asked as to whether he pleads guilty or not and to the said question, the appellant had pleaded guilty by saying that, he proceeded with his companion from Champhai to Aizawl, in a Sumo vehicle and when they were about to stop at the destination, for selling the said contraband, the personnel from the Excise Department, intercepted and they were detained and the articles were found in his possession and that he and his companion were taken to the Excise office where they were arrested for possession of contraband.

10. After framing of charge, as mentioned above, on the same day, the learned Court heard the parties after the learned Addl. Public Prosecutor opened up the



case under Section 249 of the BNSS, 2023. The learned Addl. PP submitted before the learned Court that the Inspector of the Excise Department received specific information about an Association detaining two male persons for possession of suspected contrabands and on reducing it into writing, the said Inspector went to the place of occurrence with her party and recovered the contraband from the accused persons including the appellant.

11. The APP further submitted that the accused persons were questioned and asked about the contraband at which the appellant took out one soap case from his bag and four numbers of tic-tac containers from his trousers and the same were seized and on weighing, it was found that the contraband packed in a soap case was of 14 grams and the contraband kept in the tic-tac containers were of 1.672 grams.

12. The learned APP further submitted that after submission of the report of seizure and arrest, the case was registered against the appellant and the co-accused. She then submitted that the contraband were deposited in the designated godown and the necessary entries were made in the godown register. Further, the statement of the witnesses were also recorded. She also submitted that the inventory which was prepared was certified as correct by the JMFC on 28.02.2025 and the samples were drawn, photographs were taken and the samples were forward to the FSL for examination.

13. The learned APP further submitted before the Court that there was no violation of any mandatory provision of law and that six witnesses were examined by the Investigating Authority and also documents were exhibited. The APP as such prayed for framing of charge against the accused persons.



14. As has been stated above, no application was filed for discharging the accused persons before the learned Court.

15. The Court having found no procedural lapse during the search and seizure framed the charge as stated above. The Court had also examined the inventory prepared and certified and all other procedures undertaken and also found that the plea of guilt by the accused person was in corroboration with the available evidences on record. It was therefore held that the facts admitted and the ingredients constituting the offence charged against them being found clean, unambiguous and unqualified, proceeded to act under Section 252 of the BNSS, 2023. The Court being satisfied with the pleadings, the evidences collected and the guilt pleaded by the appellant and the co-accused, convicted the appellant and the co-accused under Section 21(b) of the ND&PS Act, by Order dated 19.05.2025.

16. Thereafter, on 21.05.2025, the learned Court heard on the sentence to be imposed on the appellant and the co-accused and on conclusion of the hearing, imposed the punishment of R.I. for a period of 8 months with fine of Rs. 2,50,000/- and in default of the fine, R.I. for another period of 1 year upon the appellant as stated above.

SUBMISSIONS:

17. The learned counsel for the appellant submits that the appellant was convicted and sentenced as stated above on the plea of guilt at the stage of charge framing itself. He further states that the appellant was arrested on 27.02.2025 and since the day of his arrest, he is inside the jail. He submits that



till today, the appellant has completed 1 year 4 months and 28 days of incarceration and to complete his sentence including the sentence for non-payment of fine, only 3 months few days are left. He submits that the appellant be treated with leniency and be released on the period undergone.

18. On the other hand, Mrs. Vanneihsiami, learned Addl. Public Prosecutor for the State of Mizoram submits that the learned Court after going through the entire records of the case and the documents submitted therewith and after hearing the learned Addl. Public Prosecutor for the State framed the charge against the appellant and read over the same to the appellant and the said charge was also explained to the appellant and when the appellant was asked whether he pleads guilty or not, the appellant answered in the affirmative that he pleads guilty. She further submits that the learned Court upon consideration of the materials on record and on finding that all the procedures were properly followed together with the plea of guilt of the appellant, convicted the appellant rightly under Section 21(b) of the ND&PS Act.

ANALYSIS AND FINDINGS:

19. Under Section 251 of the BNSS, 2023, it is provided that upon consideration of the record of the case and the documents submitted alongwith the same and after hearing submissions of the accused and the prosecution on that behalf, if the Judge is of the opinion that there is ground for presuming that the accused had committed offence will frame the charge in writing against the accused person. It is further provided that when the Judge frames the said charge, the same shall be read over and explained to the accused person and the accused person shall be asked whether he pleads guilty of the offence



charged or claims to be tried. It is further provided under Section 252 of the BNSS, 2023 that if the accused pleads guilty, the Judge shall record the plea and may in his discretion, convict him thereon. Although it is provided under the said provisions that the Court can in its discretion convict the person who pleads guilty, but it has been held by the Hon'ble Supreme Court that even in such cases for the ends of justice, the Court should conduct a complete trial and if offence is proved, convict the accused person and impose punishment. However, the same has not been done in the instant case and the learned Court had convicted the appellant on his plea of guilt alongwith the consideration of the records of the case.

20. In the instant case, it is found that the appellant on being apprehended had himself taken out the contrabands both from his bag pack and from his pocket and handed over to the authorities concerned. Upon weighing the contrabands, the same were found of intermediate quantity. It is also seen that the appellant had not filed any application for discharge before the learned Court during the charge framing stage. The appellant seems to have completed the substantive sentence imposed upon him for the offence under Section 21(b) of the ND&PS Act i.e., the period of 8 months but he is still inside the jail for completing the additional term of 1 year because of the fact that he could not pay the fine of Rs. 2,50,000/-.

CONCLUSIONS:

21. It is noticed that appellant had already served out the substantive sentence and is now serving out the sentence in default of fine. He has served more than 8 months for non-payment of fine which according to this Court would be



sufficient.

22. In view of the facts and circumstances of the present case, this Court finds it fit that the appellant, namely, Sh. Zoramchhana, be released on the ground of period undergone. This Court has also not lost sight of the fact that by giving the benefit of remission, the appellant must have finished the sentence period by now.

23. The appellant to be released forthwith if not required in connection with some other case.

24. Send back the TCR.

25. The appeal stands disposed of.

26. In appreciation of the service rendered by Mr. H. Zodinsanga, learned Amicus Curiae, it is as such directed that he be paid the necessary remuneration by the Mizoram State Legal Services Authority within a reasonable period of time.

JUDGE

Comparing Assistant