



Serial No. 03
Supplementary List

HIGH COURT OF MEGHALAYA
AT SHILLONG

BA. No. 42 of 2026

Date of Decision: 14.07.2026

Shri. Pradip Paul,
Aged about 51 years,
S/o (L) R. R Paul,
R/o- 109/1 Western Side of Barapathar, Shillong,
East Khasi Hills District, Meghalaya.

...Petitioner

- Vs-

1. State of Meghalaya,
Represented by Secretary (Home),
Government of Meghalaya.
2. The Superintendent of Police,
Ri- Bhoi District, Meghalaya.

...Respondents

Coram:

Hon'ble Mr. Justice W. Diengdoh, Judge

Appearance:

For the Petitioner/Appellant(s) : Mr. S.S. Yadav, Adv.

For the Respondent(s) : Mr. H. Kharmih, Addl. P.P

i)	Whether approved for reporting in Law journals etc.:	Yes/No
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ii)	Whether approved for publication in press:	Yes/No
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JUDGMENT AND ORDER (ORAL)

1. Heard Mr. S.S. Yadav, learned counsel for the petitioner who has



submitted that this is the second bail application filed before this Court on behalf of Shri. Rajat Paul who was arrested in connection with Nongpoh P.S. Case No. 29(02) 2025 under Sections 21(b)/27A/29 of the NDPS Act, the first bail application being withdrawn with liberty to file afresh. It is also submitted that before the Trial Court four bail applications have been filed on behalf of the said accused person which were all rejected.

2. The learned counsel has submitted that the accused person was arrested on 28.02.2025, on being suspected to be involved in a case where alleged contraband substance, suspected to be heroin weighing about 31.23 grams was allegedly recovered from the accused person in question.

3. In due course after completion of investigation, the Investigating Officer (IO) has filed the charge sheet and all the accused persons involved were found to be prima facie complicit in the act of possession of contraband substance and they were directed to face trial. On charges framed under Section 21(b)/27A/29 of the NDPS Act, the stage of the case, taken up by the court of the learned Special Judge (NDPS) Nongpoh, is for recording of evidence of the prosecution witnesses, 6 out of 13 witnesses having tendered their evidence so far.

4. The learned counsel has further submitted that the grounds relied upon by the petitioner herein for grant of bail is that there has been delay in the proceedings and that the accused person in question having been in



judicial custody for more than a year, he is therefore entitled to be granted bail. However, the main thrust of the learned counsel as far as the prayer made in this application is concerned is the fact that because there has been legal and procedural lapses by the investigating authority, inasmuch as the complete form of intimation of grounds of arrest, at the time of his arrest was not made known to the accused person, as such his fundamental rights in accordance with the provision of Article 21 and Article 22 have been violated.

5. In this regard, the learned counsel has submitted that on perusal of the communication under the heading “*intimation of grounds of arrest*” what is noticed is that in a prescribed format listing a number of grounds with relevant boxes to be ticked marked, as far as the accused persons is concerned, there are only two boxes which were ticked marked, meaning that these two are the only grounds of arrest as far as the accused person is concerned. The first entry made as regard intimation is that the accused person has committed a cognizable offence in the presence of a Police Officer and the second box indicates that the accused person is suspected of being involved in a cognizable offence punishable with imprisonment for a term that may extend to more than seven years.

6. According to the learned counsel these two entries cannot be considered grounds of arrest since the offences alleged to have been



committed by the accused person, for example, the reference to a cognizable offence, if convicted, entails imprisonment for a period that may be less than seven years or which may extend to seven years, whereas, if the accused person is found guilty of committing the offence under Section 27A, the minimum punishment is ten years, as such, it cannot be said that the correct grounds of arrest have been intimated to the accused person. In this regard, the learned counsel has referred to the case of *Shri. Labius Areng v. The State of Meghalaya*, wherein, vide order dated 23.03.2026 in BA No. 9 of 2026, at para 22, 23 and 24 of the same, this Court has held as follows:

“22. When the FIR was registered, the offence said to have been committed by the accused person including the petitioner herein are under Section 22 (c)/25/29 of the NDPS Act 1985, which provides for punishment for an offence involving possession etc., of commercial quantity of contraband substances. The punishment for such offence is imprisonment for a period of ten years minimum which may extend to twenty years with fine.

23. If one goes by the intimation of grounds of arrest presented to the petitioner, there is indeed no indication that the charges against him entails a punishment of ten years or so. This shows that sufficient knowledge of facts constituting grounds of arrest, has not been effectively communicated to the petitioner herein in clear terms.

24. As observed, since the charge sheet have been filed in the meantime, the petitioner is aware of the charges against him, being initially communicated of the grounds of arrest for having committed an offence carrying a punishment of seven years or so, but was ultimately informed that he is charged for having committed an offence prescribing a minimum punishment of ten years, therefore, it can be said that prejudice has been caused to him as far as his defense is concerned.”



7. On the contention of the learned Addl. P.P that the petitioner has approached this Court too late in the day as the charge sheet has already been filed, the learned counsel for the petitioner has submitted that in a catena of judgments, the Supreme Court has debunked this proposition and in the case of **Prabir Purkayastha v. State (NCT of Delhi), (2024) 8 SCC 254**, at para 21, the Supreme Court has held that “...*Mere fact that a charge-sheet has been filed in the matter, would not validate the illegality and the unconstitutionality committed at the time of arresting the accused...*”. Similarly, in the case of **Vihaan Kumar v. State of Haryana and Anr, (2025) 5 SCC 799**, at para 16 of the same, the following has been observed:

“16. This Court held that the language used in Articles 22(1) and 22(5) regarding communication of the grounds is identical, and therefore, this Court held that interpretation of Article 22(5) made by the Constitution Bench in *Harikisan v. State of Maharashtra* [1962 SCC OnLine SC 117], shall ipso facto apply to Article 22(1) of the Constitution of India insofar as the requirement to communicate the ground of arrest is concerned. We may also note here that in para 21, in *Prabir Purkayastha v. State (NCT of Delhi), (2024) 8 SCC 254*, this Court also dealt with the effect of violation of Article 22(1) by holding that any infringement of this fundamental right would vitiate the process of arrest and remand. Para 21 reads thus: (*Prabir Purkayastha v. State (NCT of Delhi), (2024) 8 SCC 254*, p-2760)

“21. The right to be informed about the grounds of arrest flows from Article 22(1) of the Constitution of India and any infringement of this fundamental right would vitiate the process of arrest and remand. Mere fact that a charge-sheet has been filed in the matter, would not validate the illegality and the unconstitutionality committed at the time



of arresting the accused and the grant of initial police custody remand to the accused.”

8. In view of the above, the learned counsel has submitted that this petition may be allowed and the prayer made for grant of bail to the accused person in question may be allowed with any conditions that this Court may imposed.

9. Mr. H. Kharmih, learned Addl. P.P in his submission on behalf of the State respondent while opposing the prayer made in this petition has referred to the forwarding report dated 28.02.2025, wherein, upon production of the accused person in question before the court of the learned Special Judge (NDPS), Nongpoh, the I/O has clearly stated all the facts pertaining to the case of how and in what manner the accused person was arrested and his complicity in the said case. Therefore, according to the learned Addl. P.P it cannot be said that the grounds of arrest has not been intimated to the accused person.

10. The learned Add. P.P has also submitted that admittedly, in the communication of the grounds of arrest to the accused person at the time when he was arrested are only on two grounds, the most important ground being that he was arrested on having committed cognizable offence in the presence of the Police Officer and such offence if convicted, will result in imprisonment for a term which may extend to more than seven years, the



minimum punishment as far as the accused person is concerned would be ten years. As such, since the accused person has been found to be clearly involved in the commission of the said offence, therefore, he is not entitled to be granted bail. This application being devoid of merits, the same is liable to be dismissed, submits the learned Addl. P.P.

11. This Court on consideration of the submission made by the learned counsels for the parties and on perusal of the petition in hand, particularly, the intimation of the grounds of arrest, found at page 52 herein, as well as the said Forwarding Report(supra), what is understood is that the accused person was arrested, on the vehicle he was travelling in being intercepted at Mawtnum opposite HP Petrol Pump, NH-06, Ri-Bhoi District by the police, suspected contraband substance was found and seized from the accused person in question for which he was accordingly arrested and proceeded against in accordance with law.

12. The main ground raised by the petitioner herein is that, at the time of his arrest, the accused person in question was never properly intimated of the grounds of arrest and as such, such action being violative of his constitutional rights, particularly, Article 21 and Article 22 of the Constitution of India, his arrest is vitiated by the authorities concerned not complying with the relevant procedure at the time of his arrest.

13. It is true that there was no indication to show that the accused



person in question was duly and properly intimated of the grounds of arrest, when he was taken into custody by the police, therefore, only on this ground alone, the arrest has become vitiated and he is entitled to be granted bail.

14. On the challenge that the accused person has approached this Court too late in the day, the authority of the case of Prabir Purkayastha(supra) as well as that in the case of Vihaan Kumar(supra) can be made applicable to the case of the accused person in question. The relevant authorities relied upon by the learned counsel for the petitioner, that is, the case of Prabir Purkayastha(supra) at para 21(supra) as well as the case of Vihaan Kumar(supra) at para 16, noted at para 7 above, in the opinion of this Court, are found applicable to the case of the accused person herein.

15. In such a scenario, there is no option but for this Court to return a verdict in favor of the petitioner herein. Accordingly, this petition is hereby allowed.

16. The accused person is to be released from custody immediately, provided he is not wanted in any other case, on his undertaking and execution of a bond which will be more detailed in the conditions for grant of bail set forth herein.

17. The petitioner is hereby directed to be released on bail on the



following conditions:

- i) That he shall not abscond or tamper with the evidence or witnesses;
- ii) That he shall attend court as and when called for;
- iii) That he shall not leave the jurisdiction of Assam and Meghalaya, except with due permission of the court concerned; and
- iv) That he shall bind himself on a personal bond of ₹ 50,000/- (Rupees fifty thousand) with two sureties of like amount to the satisfaction of the Trial Court.

18. Petition disposed of. No costs.

Judge

Meghalaya
14.07.2026
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