

**HIGH COURT OF TRIPURA
AGARTALA**

B.A. No.51 of 2025

Harun Miah
S/O Tarab Ali
Resident of Khadya Khola, Ward No.1,
P.S.-Jatrapur,
Dist.-Sepahijala, Tripura

----- Accused Person-in-custody

Versus

The State of Tripura

-----Respondent(s)

For Applicant(s)	:	Mr. Subrata Sarkar, Sr. Adv, Mr. Arpan Jamatia, Adv.
For Respondent(s)	:	Mr. Raju Datta, P.P.

HON'BLE MR. JUSTICE BISWAJIT PALIT

Order

01/08/2025

This bail application is filed under Section 483 of BNSS, 2023 for granting bail to the accused person namely Harun Miah who is lodging in custody on and from 14.05.2025 in connection with Jatrapur PS case No.10 of 2025 for the offence punishable under Section 20(b)(ii)(c)/25 of NDPS Act.

Heard Learned Senior Counsel Mr. Subrata Sarkar assisted by Learned Counsel Mr. Arpan Jamatia appearing on behalf of the accused in custody and also heard Learned P.P. Mr. Raju Datta appearing on behalf of the State-respondent.

Taking part in the hearing, Learned Senior Counsel has drawn the attention of this Court that in this case the mandatory requirement of law (i.e. ground of arrest) was not communicated to the accused and the arrest memo does not contain the said fact as such in view of the principle of law laid down by the Hon'ble Apex Court in **Prabir Purkayastha vs. State (NCT of Delhi)** reported in **2024 8 SCC 254, Vihaan Kumar vs. State of**

Haryana & Anr. reported in **2025 SCC OnLine 269** and **Pankaj Bansal vs. Union of India and Ors.** reported in **(2024) 7 SCC 576**, Learned Senior Counsel urged for releasing the accused on bail in any condition.

On the other hand, Learned P.P. appearing on behalf of the State-respondent submitted that herein in the case at hand the alleged contraband item was directly recovered from the residence of the accused and when the police raided his house, that time, he fled away which means that knowing the fact that he has possessed and concealed contraband items, he absconded. Thereafter, on 14.05.2025 at about 10.45 hours at Tindepa Chowmohany near Kathalia block, he was arrested by IO and on the same day, he was produced before the Court, when on his behalf, his engaged Learned Counsel filed bail application and on that day, no such plea was taken by the accused that he was unaware about the fact of his arrest in connection with this case. Even on that day at the time of seizure of contraband items, his family members were duly informed and the report of Tehsildar also confirms about the residence of the accused from where the contraband item was seized. So, at this stage, there is no scope to grant bail to the accused on the plea that the ground of arrest was not communicated to him. Learned P.P. also referred para No.22 of the judgment of Hon'ble the Supreme Court reported in **(2024) 7 SCC 599** in **Ram Kishor Arora Vs. Directorate of Enforcement** and relying upon the same, Learned P.P. again submitted that at this stage there is no scope to release the accused on bail.

In this case, the prosecution was set into motion on the basis of an FIR dated 10.03.2025 laid by SI Shubhankar Saha of

Jatrapur PS to O/C, Jatrapur PS alleging *inter alia* that on that day at about 19.50 hours he received one secret information from a reliable source that huge quantum of suspected contraband items has been stored in the residence of one Harun Miah, S/O Tarab Ali of Khadya khola, Ward No.1, PS-Jatrapur. Accordingly, he entered the fact in GD and after that, the same was informed to the O/C, PS. Requisition was sent to SDM, Sonamura to depute Govt. official for witnessing the search and seizure. Tehsildar was also informed. After that, at about 20.25 hours the informant along with staff arrived at the house of accused Harun Miah at Jatrapur but on seeing the police party, Harun Miah fled away. Thereafter, he called the neighbour namely Manjil Hossain who was available in his house. Thereafter in presence of said neighbour/Tehsildar he acknowledged his identity before them and arranged for the pre-search. After that, he also issued notice under Section 42 of NDPS Act to Harun Miah but the notice could not be served as the accused by this time fled away. Thereafter, he prepared pre-search memo in presence of witnesses and conducted search in the dwelling house of the accused Harun Miah in presence of said Manjil Hossain. In course of search, after digging the soil in the adjacent backside of the kitchen of Harun Miah recovered two blue colour plastic drum which was packed with white colour plastic polyethene and after opening the drum found 32 kg of dry ganja. After that, the same was seized observing all formalities. Threafter, on 14.05.2025 at about 10.45 hours he was arrested in connection with this case and on the same day he was produced and he was defended by his engaged Learned Counsel. However, after hearing, his bail petition was rejected by the Learned Trial Court.

It appears to this Court that in course of hearing, Learned Senior Counsel only drawn the attention of the Court that the ground of arrest was not communicated to the accused but did not submit any other points of law to counter the prosecution story. From the facts and circumstances of the case, it appears that since the contraband item was directly recovered from the residence of the accused and seeing the police party, he absconded on 10.03.2025 so definitely it appears that his neighbour and his family members were duly informed and in presence of neighbour, the contraband item was seized. The investigation of the case is in progress. In the forwarding report, it was written that the ground of arrest is duly communicated to the accused and to the family members and medical assistance was accordingly provided to him.

So, after hearing both the sides and also after going through the relevant prosecution papers, it appears to this Court that since the contraband item was recovered from the residence of the accused and he absconded at the time of seizure seeing the police party, so, it cannot be said that he was not aware about the prosecution case and he was duly defended by his engaged Learned Counsel and to counter the prosecution case, the defence could not raise any other substantial point showing innocence of the accused. Furthermore, in course of hearing, Learned defence Counsel failed to satisfy the Court that the rigour of provision of Section 37 of NDPS Act would not apply in this case. So, the submission of Learned Senior Counsel for the accused cannot be accepted at this stage. Accordingly, the bail application filed stands rejected. The accused is to remain in J/C as before.

With this observation, this bail application stands disposed of.

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

Return back the Case Diary to IO through Learned P.P. along with a copy of this order.

JUDGE

