

HIGH COURT OF TRIPURA
A_G_A_R_T_A_L_A

B.A. No.28 of 2026

1. Nazir Hossain, son of Sri Amjad Ali, resident of village & P.O. Shukarur Kuthi, P.S. Sahebganj, District: Koochbihar, West Bengal, PIN-736168.

.....*Petitioner*

1. Nazrul Islam, son of Sri Amjad Ali, resident of Village & P.O. Shukarur Kuthi, P.S. Sahebganj, District: Koochbihar, West Bengal, PIN-736168.
2. Jubair, son of Sri Gyan Mohammad, resident of village & P.S. Ghunghrala, P.S. Hafizpur, District: Hapur, U.P. Pin-245101.
3. Sarfraj Ahmed, son of Sattar, resident of House No.147, Sector-9, Shastrinagar, P.S. Nanchandi, District: Meerut, U.P. Pin-250004.

.....*Accused persons*

_V_E_R_S_U_S_

1. The State of Tripura

.....*Respondent*

For Appellant(s)	:	Mr. S. Kar Bhowmik, Sr. Advocate. Mr. N. Das, Advocate. Mr. E. L. Darlong, Advocate.
For Respondent(s)	:	Mr. R. Datta, P.P.
Date of hearing	:	09.02.2026
Date of judgment and order:	:	12.02.2026
Whether fit for reporting	:	YES

HON'BLE JUSTICE DR.T. AMARNATH GOUD
_F_I_N_A_L_O_R_D_E_R_

[1] As per roster, the bail applications are listed before Justice, S. Datta Purkayastha, J, and the matter has been listed today. Since, he was not attending the Court; the learned counsel expressed urgency and prayed before this Court to hear the matter as per the administrative orders of the Hon'ble Chief Justice. Hence, taken up.

[2] Heard Mr. S. Kar Bhowmik, learned senior counsel assisted by Mr. E. L. Darlong, learned counsel appearing for the petitioners also heard Mr. R. Datta, learned P.P. appearing for the respondent-State.

[3] This is the second bail application filed seeking to grant bail infavour of the accused persons.

[4] Earlier the first bail application filed vide B.A. No.01 of 2026 was dismissed vide order dated 16.01.2026.

[5] Now, there is change in circumstances i.e. charge-sheet is filed on 24.01.2026 before the learned Court below. Therefore, this bail application.

[6] By this application filed under Section-483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 [for short BNSS, 2023], the petitioners, namely, Nazrul Islam, Jubair and Sarfraj Ahmed, who are in custody, in connection with Jatrapur P.S. crime No. 2025 JTP 034 dated 31.07.2025 under Sections-22(C)/25/29 of NDPS Act, prayed to release them on bail.

[7] The facts in brief are that, on 31.07.2025 at 1538 hrs the O/C Jatrapur P.S., Sepahijala District, Tripura received one written information from S.I. Bijoy Kumar Chakraborty, of Jatrapur P.S. to the effect that on that day, on the basis of a secret information that one red colour chevrolet (AVEO-LS) vehicle (numberless) was parked at Jatrapur Para, Bashpukur, on the south side of the field of the office of the Inspector of school loaded with contraband NDPS items like yaba tablets. Accordingly, he wrote down the information and complied with other formalities under Section-42 of the NDPS Act, entered the said fact in GD entry No.4 dated 31.07.2025 and then arrived at the spot with police force. The BSF authority also accompanied them. Inspector, Sitikanta Bardan, O/C of Jatrapur police station, also arrived there. Nobody was found inside the said vehicle and according to him, before searching the vehicle he tried to collect independent witnesses but none was found available. Thereafter, he prepared a search memo and conducted the search of the vehicle, and therefrom 14,000 (Fourteen thousand) nos. of yaba tablets of total weight 1.490 kg contained in blue colored plastic packets kept in yellow colored plastic bag were recovered. During preliminary investigation, it was also revealed that three persons carried those items by said vehicle and parked it beside the field at about 0200 hours and entered into the house of one Harun Miah of that locality. Thereafter, they detained the said three accused persons namely (1) Sarfraj Ahmed, (2) Jubair and (3) Nazrul Islam, from the said house.

[8] Thereafter all the seized contraband items, relevant documents detained 03 (Three) accused persons and brought to PS and handed over to O/C JTP PS with Proper Handing over Take over Memo. The informant thus prayed for taking necessary action against the aforesaid accused persons as per law. On receipt of the aforesaid written complaint, O.C Jatrapur P.S. lodged Jatrapur P.S. Case No.2025 JTP 034 dated 31.07.2025 under Sections-22(C)/25/29 of Narcotic Drugs

and Psychotropic Substances Act, 1985 and on 01.08.2025, the accused persons were produced before the learned Court below, Sonamura wherein, their bail prayer was rejected.

[9] Being aggrieved by and dis-satisfied with the same, an earlier bail petition has been filed before this Court vide B.A. No.01 of 2026 and the same has been dismissed vide order dated 16.01.2026. The respondent filed charge-sheet dated 24.01.2026 before the learned Court below. In view of the same, the present bail application is filed.

[10] Mr. S. Kar Bhowmik, learned senior counsel assisted by Mr. E. L. Darlong learned counsel appearing for the accused persons has submitted that no contraband had been recovered from the possession of the petitioners neither there is any live link established between the petitioners with the allegedly seized contraband and falsely the petitioners have been roped in the present case. Also there is no independent witness of the search and seizure of the alleged contrabands.

[11] The constitutional safeguards and the rights of the petitioners under Article-22(1) of the Constitution of India and Section-47 of the BNSS, 2023 has been violated so far the arrest of the petitioners are concerned inasmuch as, there was no material before the investigating agency which could legally be construed as grounds of arrest thereby connection the petitioners with the alleged crime calling for their arrest and detention.

[12] The applicant namely Nazrul Islam along with his two friends namely Sarfraj Ahmed and Jubair came to Agartala on 30.07.2025 by Akasa Air flight number QP1323 from Gauhati and the departure time of the said flight was 1305 hrs. As such, it is evident that neither the appellant nor any of his friends were carrying any contraband with them. It is submitted that the boarding pass of Sarfraj only could be preserved and the other travel documents of Jubair and Nazrul has been taken by the I.O. in his custody.

[13] After coming to Agartala the applicant and his two other friends were lodged at hotel Grand Zuri at airport road, Agartala and hearing the news of their arrival at Agartala their common friend namely Harun Miah @ Farook Miah of Jatrapur para under Jatrapur PS came to the hotel and on his instance the applicant

and friends checked out from the hotel on 30.07.2025 at around 8 PM and went to his house along with him at Jatrapur wherefrom on the next day, early in the morning all three of them were illegally detained by Jatrapur PS and later roping them in the instant false case.

[14] It has been further contended that the CC TV footage of Jatrapur P.S. would reveal that the applicants were illegally detained at Jatrapur P.S on 31.07.25 early morning at around 5.30 AM and then the whole case was hatched falsely against them and later they were shown arrest at 4.30 PM on 31.07.2025. The applicants submit that in connection with the present case incomplete charge sheet vide Jatrapur P.S. C/S No. 01 dated 24.01.26 under Sections-22(C)/25/29 of NDPS Act 1985 was submitted by investigating agency with an oblique motive to frustrate the default bail of the applicant, right of which accrued on 27.01.2026, inasmuch as, in the last 2 lines of the charge sheet it is written that *“it is pertinent to noted here that after receive of cyber forensic report from SFSL supplementary charge sheet will submit.”* It is further submitted that the order dated 27.01.2026 passed by the learned Special Judge, Sonamura taking cognizance of offence without receipt of cyber forensic report is bad in law and liable to be quashed.

[15] Most illegally no videography of the search and seizure was done and no alleged contrabands were recovered from the active or constructive possession of the applicants. On 31.07.2025 in the early morning the three friends were scheduled to visit the famous shrine of Abdur Rahaman Dorbesh aged more than 100 years, situated at Shalbagan, Machima, P.S-Jatrapur and it was scheduled that after offering homage, the accused Nazrul Islam would go back home at Cooch Behar via Gauhati and he was having his Air India Express flight from Agartala to Gauhati on 31.07.2025 at 11.30 AM and because of illegal detention, he could not catch his flight. The other two accused persons namely Sarfraj and Jubair were having their Indigo flights on 31.07.2025 from Agartala to Delhi at 3.30 PM and as they were also detained illegally, none could catch their flight.

[16] The contention of the investigating agency that there was no independent witness at the time of search/seizure may not be true since media was present at the time of alleged search and seizure and in this regard atleast one electronic media namely " News Tripura" channel telecasted a news with allegedly live video of search/seizure wherein it could be seen that at least one packet was

being tampered by a police personnel. The statutory formalities under Sections-41, 42, 50, 52 and Section-52-A of NDPS Act 1985, in general and the standing orders in this regard issued time to time, has been grossly violated in the instant case vitiating the whole proceeding, for which the petitioners may kindly be granted bail.

[17] The statutory provisions of NDPS Act regarding search and seizure, sample taking has been violated making the present case liable to be quashed and the petitioners may be therefore, be released on bail. In view of the charge sheet being filed in the present case on 25.01.2026, further custodial detention of the petitioners is uncalled.

[18] Mr. Kar Bhowmik, learned senior counsel in support of his case has placed reliance on a decision of the Hon'ble Apex Court in Criminal Appeal **No.2022 of 2025 titled as Jabir Kha v. State of Madhya Pradesh**, wherein the Court held as under:

“A strange procedure appears to have been followed by the Special Court under the NDPS Act. An order was passed on 3rd December, 2024 recording that the FSL report was not received and that the Special Public Prosecutor requested for grant of time to file FSL report. The Court granted time till 13th December, 2024. On that day, FSL report was simply tendered across the Bar without filing a supplementary charge-sheet. Admittedly, the date of the report is 26th September, 2024. If the date mentioned is correct, it was very much available when the charge-sheet filed. Strangely, this report was placed on record on 13th December, 2024 without filing supplementary charge-sheet.

Prima facie, it appears that this conduct on the part of the prosecution is very strange. There are no antecedents brought on record of the appellant. The appellant is in custody for the last one year. Considering the peculiar facts of the case, the appellant deserves to be enlarged on bail till the conclusion of the trial.”

[19] While concluding his argument, he prayed for granting bail.

[20] Mr. R. Datta, learned P.P. appearing for the respondent-State on the other hand, referring to the materials placed in the case diary submits that there are sufficient incriminating materials against all the three accused persons, the petitioners herein, that they had their conscious possession of above said seized articles and therefore, rigour of Section-37 of the NDPS Act, will apply. Regarding certain discrepancy of the dates mentioned beneath the signature of said informant in the pre-search memo etc. as indicated above, were mere unintentional errors committed due to un-mindfulness of the informant. It has been further contended

that absence of possession of contraband on the person of the accused, does not absolve it of the level of scrutiny.

[21] In support of his contentions, has placed reliance on some decisions of the Hon'ble Apex Court in *Narcotics Control Bureau v. Mohit Aggarwal*, reported in (2022) 18 SCC 374, *Central Bureau of Investigation v. Kapil Wadhawan and Another*, reported in (2024) 4 SCC 734, *Hanif Ansari v. State (Govt. of NCT of Delhi)*, reported in (2024) SCC Online SC 537, *State of Kerala v. Prabhu*, reported in (2024) SCC online SC 5300 and one judgment from the High Court of Delhi in *Rahimullah Rahimi v. State of NCT of Delhi*, in Crl. Rev. P. No.163 of 2024 & Crl. M.A. 3474 OF 2024.

[22] This Court after overall analysis and having heard the learned counsel appearing for the parties and on perusal of the material evidence on record is of the opinion that it's a large scale narco-terror conspiracy involving transitional actors and possible enemy-state sponsored involvement. A perusal of the charge-sheet submitted by the investigating agency clearly demonstrates that it is in compliance with the required statutes. However, the judgment as relied upon by the learned senior counsel appearing for the petitioners is irrelevant to the facts and circumstances of the present case.

[23] For better appreciation of the facts of the case in the light of the legal position settled by the Hon'ble Apex Court.

[24] In *Narcotics Control Bureau v. Mohit Aggarwal*, reported in (2022) 18 SCC 374, the Hon'ble Apex Court has observed that:

“14. To sum up, the expression “reasonable grounds” used in clause (b) of Sub-Section (1) of Section 37 would mean credible, plausible and grounds for the Court to believe that the accused person is not guilty of the alleged offence. For arriving at any such conclusion, such facts and circumstances must exist in a case that can persuade the Court to believe that the accused person would not have committed such an offence. Dove-tailed with the aforesaid satisfaction is an additional consideration that the accused person is unlikely to commit any offence while on bail.

15. We may clarify that at the stage of examining an application for bail in the context of the Section 37 of the Act, the Court is not required to record a finding that the accused person is not guilty. The Court is also not expected to weigh the evidence for arriving at a finding as to whether the accused has committed an offence under the NDPS Act or not. The entire exercise that the Court is expected to undertake at this stage is for the limited purpose of releasing him on bail. Thus, the focus is on the Criminal Appeal Nos.

..... of 2022 @ Petitions for Special Leave to Appeal (Criminal) No. 6128-6129 OF 2021 availability of reasonable grounds for believing that the accused is not guilty of the offences that he has been charged with and he is unlikely to commit an offence under the Act while on bail.

18. Even de hors the confessional statement of the respondent and the other co-accused recorded under Section 67 of the NDPS Act, which were subsequently retracted by them, the other circumstantial evidence brought on record by the appellant-NCB ought to have dissuaded the High Court from exercising its discretion in favour of the respondent and concluding that there were reasonable grounds to justify that he was not guilty of such an offence under the NDPS Act. We are not persuaded by the submission made by learned counsel for the respondent and the observation made in the impugned order that since nothing was found from the possession of the respondent, he is not guilty of the offence for which he has been charged. Such an assumption would be premature at this stage.”

[25] In ***Central Bureau of Investigation v. Kapil Wadhawan and Another***, reported in (2024) 4 SCC 734, the Hon’ble Apex Court has observed as under:

“23. The benefit of proviso appended to sub-section (2) of Section 167 of the Code would be available to the offender only when a charge-sheet is not filed and the investigation is kept pending against him. Once however, a charge-sheet is filed, the said right ceases. It may be noted that the right of the investigating officer to pray for further investigation in terms of sub-section (8) of Section 173 is not taken away only because a charge-sheet is filed under sub-section (2) thereof against the accused. Though ordinarily all documents relied upon by the prosecution should accompany the charge-sheet, nonetheless for some reasons, if all the documents are not filed along with the charge-sheet, that reason by itself would not invalidate or vitiate the charge-sheet. It is also well settled that the court takes cognizance of the offence and not the offender. Once from the material produced along with the charge-sheet, the court is satisfied about the commission of an offence and takes cognizance of the offence allegedly committed by the accused, it is immaterial whether the further investigation in terms of Section 173(8) is pending or not. The pendency of the further investigation qua the other accused or for production of some documents not available at the time of filing of charge-sheet would neither vitiate the charge-sheet, nor would it entitle the accused to claim right to get default bail on the ground that the charge-sheet was an incomplete charge-sheet or that the charge-sheet was not filed in terms of Section 173(2) CrPC.”

[26] In ***Hanif Ansari v. State (Govt. of NCT of Delhi)***, reported in (2024) SCC Online SC 537, the Hon’ble Apex Court observed as under:

“4. In the special leave petition filed by said Mohd. Arbaz [SLP (crl.) Nos. 8164-8166/2021], interim bail was granted to the petitioner therein. A Co-ordinate Bench of this Court in the case, Central Bureau of Investigation v. Kapil Wadhawan, 2024 INSC 58 dealt with the question of an incomplete chargesheet and its impact on the bail plea of an accused. It has been held and observed in this judgment:

"23. The benefit of proviso appended to sub-section (2) of Section 167 of the Code would be available to the offender only when a charge-sheet is not filed and the investigation is kept pending against him. Once however, a charge-sheet is filed, the said right ceases. It may be noted that the right of the investigating officer to pray for further investigation in terms of sub-section (8) of Section 173 is not taken away only because a charge-sheet is filed under sub-section (2) thereof against the accused. Though ordinarily all documents relied upon by the prosecution should accompany the charge-sheet, nonetheless for some reasons, if all the documents are not filed along with the charge-sheet, that reason by itself would not invalidate or vitiate the charge-sheet. It is also well settled that the court takes cognizance of the offence and not the offender. Once from the material produced along with the charge-sheet, the court is satisfied about the commission of an offence and takes cognizance of the offence allegedly committed by the accused, it is immaterial whether the further investigation in terms of Section 173(8) is pending or not. The pendency of the further investigation qua the other accused or for production of some documents not available at the time of filing of charge-sheet would neither vitiate the charge-sheet, nor would it entitle the accused to claim right to get default bail on the ground that the charge-sheet was an incomplete charge-sheet or that the charge-sheet was not filed in terms of Section 173(2) of Cr. P.C."

6. The lead matter on this point is the case of Directorate of Enforcement v. Manpreet Singh Talwar [SLP(Crl.) No. 5724 of 2023], which is still pending before a three-Judge Bench of this Court. The case of Mohd. Arbaz (supra) stands tagged with this matter. There are other orders also passed by this Court tagging, where similar questions of law are involved. But interim bail has not been granted in every tagged petition. It has been declined in the cases of Pabitra Narayan Pradhan v. The State (NGT) of Delhi [SLP (crl.) Diary No. 43791 of 2023], Shankar Shiva Maheshwar Savai v. The State of Gujarat (order dated 03.03.2023 in SLP (Crl.) No. 2562/2023) but in none of these cases, it has been finally determined as to whether failure on the part of the prosecution to include the FSL report along with the chargesheet in relation to offences under the Narcotic Drugs and Psychotropic Substances Act, 1985 would automatically entitle the accused to default bail or not. Further, certain other factors like the quantity of the contraband articles being seized and period of incarceration were considered in the aforesaid orders while granting interim bail to the petitioner(s)/applicant(s).

8. In view of there being diversity of views of different Benches of this Court even on the question of granting interim bail, we are of the opinion that a larger Bench may decide the question as to whether failure on the part of the prosecution to include the FSL report pertaining to the seized contraband article(s) along with the chargesheet, within the time specified in Section 167(2) of the Code read with Section 36A of the NDPS Act, would entitle the accused to default bail or not."

[27] In ***State of Kerala v. Prabhu***, reported in (2024) SCC online SC 5300, the Hon'ble Apex Court observed thus:

"7. Thus, it is evidence that the exposition of law on the question regarding the requirement of compliance with Section-50 of the NDPS Act is no more res integra and this Court in unambiguous term held that if the recovery was not from the person and whereas from a bag of the NDPS Act was not required to

be complied with. It is to be noted that in the case on hand also the evidence indisputably established that the recovery of the contraband was from the bag which was being carried by the respondent.”

[28] Another judgment from the High Court of Delhi in ***Rahimullah Rahimi v. State of NCT of Delhi, in Crl. Rev. P. No.163 of 2024 & Crl. M.A. 3474 OF 2024***, the Court has held that:

14. The learned Amicus has also drawn the attention of this Court to a judgement of a coordinate bench of this Court titled *Taj Singh v. State*, 1987 SCC Online Del 244, whereby this Court had the occasion to examine when investigation is complete under Section 173 of the Cr.P.C. He states that, in the aforementioned judgement, this Court had held that so long as a police officer is able to complete his report by filing the particulars required under sub-clause (a) to (h) of clause (i) of sub-section (2) of Section 173 of Cr.P.C, the investigation of the offence can be said to be complete, because if investigation is not complete he would not be able to submit a report with the necessary particulars as contemplated in sub-section (2) of Section 173. Therefore, in essence, police report as defined under clause (r) of Section 2 and as referred to under sub-section (2) of Section 173 of the Cr.P.C is complied with once the details as enumerated in sub-clause (a) to (h) of clause (i) of sub-section (2) of Section 173 of Cr.P.C are provided and the chargesheet does not have to include an FSL Report or scientific expert report.

15. Finally, it has been submitted by the learned Amicus Curiae that mere filing of supplementary chargesheet subsequently enclosing the scientific report under sub-section (8) of Section 173 does not render the report filed under sub-section (2) of Section 173 incomplete. He has placed reliance on the case of *Tara Singh v. State*, 1951 SCC 903, and has submitted that filing of a second chargesheet would not vitiate the first chargesheet or make it incomplete. As long as the report is deemed to be complete within the meaning of clause (b) of sub-section (1) of Section 190 read with sub-section (1) of Section 173 of the Cr.P.C. and enables a Magistrate to lawfully take cognizance of an offence, it would not be deemed to be incomplete. The facts of the present case disclose that the officer in-charge forwarded the seized/ recovered contraband to the Forensic Science Laboratory, Delhi way back in October 2022. However, the FSL Report was given by the laboratory only on 06.09.2023 and was subsequently placed before the learned Trial Court through a supplementary chargesheet on 21.09.2023. Therefore, once the initial chargesheet was filed within 180 days, the question of the Petitioner's right under sub-section (2) of Section 167 of the Cr.P.C. never crystallized.

18. The moot question of law for the consideration of this Court is whether a chargesheet filed without the CFSL Report can be considered to be an “incomplete” chargesheet and whether the Petitioner would be entitled to grant of default bail in terms of sub-section (4) of Section 36A of the NDPS Act read with sub-section (2) of Section 167 of the Cr.P.C.”

[29] In ***Kallu Khan v. State of Rajasthan***, reported in ***(2021) 19 SCC 197***, wherein, the Hon’ble Apex Court has observed as under:

“14. At this state, the argument advanced by the appellant regarding non-production of contraband in the court due to which benefit of doubt ought to be given to accused, is required to be adverted to. In the case of State of Rajasthan vs. Sahi Ram (2019) 10 SCC 649, this Court held that when the seizure of material is proved on record and is not even disputed, the entire contraband material need not be placed on record. It is not a case in which the appellant has proved beyond reasonable doubt that while sending the samples for forensic tests, seals were not intact or the procedure has been materially not followed by protecting the seized substance or was not stored properly, as specified in the case of Mohan Lal (supra) in which case the directions were given to be followed on administrative side. However, in the facts of the case, the said judgment is not of any help to the appellant.

15. Similarly, in the case of Than Kumar vs. State of Haryana (2020) 5 SCC 260, this Court observed that if seizure is otherwise proved and the samples taken from and out of contraband material were kept intact; the report of forensic expert shows potency, nature and quality of contraband material, essential ingredients constituting offence are made out and the non-production of contraband in the Court is not fatal. As discussed above, the appellant has failed to show that findings recorded by two Courts suffer from any perversity or illegality on the said issue and warrant interference.

16. Simultaneously, the arguments advanced by the appellant regarding non-compliance of Section 50 of NDPS Act is bereft of any merit because no recovery of contraband from the person of the accused has been made to which compliance of the provision of Section 50 NDPS Act has to follow mandatorily. In the present case, in the search of motor cycle at public place, the seizure of contraband was made, as revealed. Therefore, compliance of Section 50 does not attract in the present case. It is settled in the case of Vijaysinh (supra) that in the case of personal search only, the provisions of Section 50 of the Act is required to be complied with but not in the case of vehicle as in the present case, following the judgments of Surinder Kumar (supra) and Baljinder Singh (supra). Considering the facts of this Court, the argument of non-compliance of Section 50 of NDPS Act advanced by the counsel is hereby repelled.”

[30] In ***Union of India v. Md. Nawaz Khan***, reported in (2021) 10 SCC 100, the Hon’ble Apex Court has observed thus:

“31. Another submission that has been raised by the counsel for the respondent both before the High Court and this Court is that due to non-compliance of the procedural requirement under Section 42 of the NDPS Act 20, the respondent should be granted bail. Section 42 provides that on the receipt of information of the commission of an offence under the statute, the officer will have to write down the information and send it to a superior officer within 72 hours. It has been submitted by the respondent that though the information was received by the Zonal Director, the information was put down in writing by an officer who was a part of the team constituted on the receipt of the information. The written information was then sent to the Zonal Director. This Court in *Karnail Singh v. State of Haryana* 21 held that though the writing down of information on the receipt of it should normally precede the search and seizure by the officer, in exceptional circumstances that warrant immediate and expedient action, the information shall be written down later along with the reason for the delay:

“42. Power of entry, search, seizure and arrest without warrant or authorisation: (1) Any such officer (being an officer superior in rank to a peon, sepoy or constable) of the departments of central excise, narcotics, customs, revenue intelligence or any other department of the Central Government including para-military forces or armed forces as is empowered in this behalf by general or special order by the Central Government, or any such officer (being an officer superior in rank to a peon, sepoy or constable) of the revenue, drugs control, excise, police or any other department of a State Government as is empowered in this behalf by general or special order of the State Government, if he has reason to believe from persons knowledge or information given by any person and taken down in writing that any narcotic drug, or psychotropic substance, or controlled substance in respect of which an offence punishable under this Act.

35..... In other words, the compliance with the requirements of Sections 42(1) and 42(2) in regard to writing down the information received and sending a copy thereof to the superior officer, should normally precede the entry, search and seizure by the officer. But in special circumstances involving emergent situations, the recording of the information in writing and sending a copy thereof to the official superior may get postponed by a reasonable period, that is, after the search, entry and seizure. The question is one of urgency and expediency.

(d) While total non-compliance with requirements of subsections (1) and (2) of Section 42 is impermissible, delayed compliance with satisfactory explanation about the delay will be acceptable compliance with Section 42. To illustrate, if any delay may result in the accused escaping or the goods or evidence being destroyed or removed, not recording in writing the information received, before initiating action, or non-sending of a copy of such information to the official superior forthwith, may not be treated as violation of Section 42. But if the information was received when the police officer was in the police station with sufficient time to take action, and if the police officer fails to record in writing the information received, or fails to send a copy thereof, to the official superior, then it will be a suspicious circumstance being a clear violation of Section 42 of the Act. Similarly, where the police officer does not record the information at all, and does not inform the official superior at all, then also it will be a clear violation of Section 42 of the Act. Whether there is adequate or substantial compliance with Section 42 or not is a question of fact to be decided in each case. The above position got strengthened with the amendment to Section 42 by Act 9 of 2001.”

32. Further, it was held that the issue of whether there was compliance of the procedure laid down under Section 42 of the NDPS Act is a question of fact. The decision in *Karnail Singh* (supra) was recently followed by this Court in *Boota Singh v. State of Haryana*.

33. In the complaint that was filed on 16 October 2019 it is alleged that at about 1400 hours on 26 March 2019, information was received that between 1500-1700 hours on the same day, the three accused persons would be reaching Uttar Pradesh. The complaint states that the information was immediately reduced to writing. Therefore, the contention that Section 42 of the NDPS Act was not complied with is *prima facie* misplaced. The question is one that should be raised in the course of the trial.”

[31] Usually in routine course as and when charge-sheet is filed is always open for the person seeking bail to approach the Court with discharge petition, now under Section-250 of the BNSS. But, in the present case supplemental charge-sheet is awaited as seen from the charge-sheet filed.

[32] Insofar as the seizure of the contraband is concerned, it is sized from Chevrolet car. But, not from the person/body. Insofar as the procedure adoption by the inspecting officer, this Court finds no infirmities.

[33] It is seen in Tripura that because of border State, it is facing regular problem with narcotic drugs leading to HIV/Aids and the citizens are victimized. It is represented in several cases by the respective advocates in cases that each yaba tablet is sold at around Rs.1,000/- as per demand. In the present case 14,000 tablets are seized worth around 1,40,00,000/-. It also becomes immense necessary that the youths of Tripura are day by day sinking under the influence of this narcotic, which cannot be ignored. The addiction is increasing day by day.

[34] The prima facie case has been made out by the prosecution against the accused and there is a serious allegation of crime against the society and humanity.

[35] The respondent State is expected to complete its investigation at the earliest and file the complete charge-sheet.

[36] The petitioners if so advised can take steps under law before appropriate Court once the final and complete charge-sheet is filed.

[37] In view of above settled position of law as laid down by the Hon'ble Apex Court, this Court is not inclined to grant bail to the petitioners at this stage.

[38] In that view of the matter, the present petition stands dismissed.

[39] As a sequel, miscellaneous application pending, if any, shall stand closed.

DR.T. AMARNATH GOUD, J