

2026:Thc:659-Db vs Jammu Baig on 20 May, 2026

Author: T.Amarnath Goud

Bench: T. Amarnath Goud

2026:THC:659-DB

TRHC010019452025

HIGH COURT OF TRIPURA

AGARTALA

CrL. A. 53/2025

The State of Tripura, represented by the Secretary, Home
Department, Government of Tripura;

.... Appellant

Versus

Jammu Baig, son of Rafiq Baig, resident of Bichli Guvadi,
Jilawada, P.S. Srinagar, District- Ajmer, Rajasthan.

----Respondent

| | | |
|---|---|-----------------------|
| For the Appellant(s) | : | Mr. Raju Datta, PP |
| For the Respondent(s) | : | Mr. S. Lodh, Advocate |
| Date of hearing & delivery of Judgment & Order | : | 13.05.2026 |
| Date of delivery of judgment & Order | : | 20.05.2026 |
| Whether fit for reporting | : | Yes |

BEFORE

HON'BLE JUSTICE DR. T. AMARNATH GOUD

HON'BLE MR. JUSTICE S. DATTA PURKAYASTHA

JUDGMENT & ORDER

(Dr.T.Amarnath Goud, J)

Heard Mr. Raju Datta, learned PP appearing for the appellant-State. Also heard Mr. S. Lodh, learned counsel appearing for the respondent.

2. The judgment dated 19.05.2025, passed in Special (NDPS) 64 of 2022 by the Special Judge, Court No.2, Khowai District, has been assailed by the appellant-State by means of this appeal, whereby the respondent had been acquitted from the charge under Sections 20(b)(ii)(C)/25/29 of NDPS Act.

3. Precisely stated, on 08.03.2022 while the complainant of the case alongwith PS staffs were performing vehicle checking duty at Salbagan on NH-08 Assam-Agartala road, at about 1145 Page 2

hours, they detained a vehicle bearing registration no. RJ-51-GA- 0392 (Multi Axle Trailer) coming from Teliamura to Ambassa side, and on checking they found two boxes in hidden condition under the trailer containing brown coloured packets of suspected dry ganja, and thereby recovered 30 numbers of packets of dry ganja weighing 292 kgs. in presence of O/C, Mungiakami PS and SDPO, Teliamura, and thereafter the complainant seized those 30 numbers of packets of dry ganja, the truck alongwith its documents by preparing seizure list and also arrested the respondent and one Mukesh Sing, who are driver and co-driver. Thereafter, a suo-moto complaint was lodged by the complainant before the O/c, Mungiakami PS, which was subsequently registered as Mungiakami PS case No. 7 of 2022 dated 08.03.2022, under sections 20(b)(ii)(C)/25/29 of the NDPS Act, and accordingly investigation was launched.

4. On completion of investigation, charge sheet was submitted against the accused respondent under Sections 20(b)(ii)(C)/25/29 of the NDPS Act. Thereafter, trial Court took cognizance of the offence against the accused-respondent, supplied the prosecution papers, also framed charge against the accused-respondent to which the accused-respondent pleaded not guilty and claimed to be tried. Accordingly, trial commenced. During trial, prosecution examined ten witnesses and exhibited some documents. After closure of prosecution witnesses the accused respondent was examined under Section 313 Cr.P.C. wherein he denied all the incriminating materials brought against him, and thereby learned trial Court by the impugned order Page 3 acquitted the accused-respondent from the charges leveled against him on the ground of non-production of Malkhana Register and also on the ground of non-compliance of provisions of sections 52A(2) and 57 of NDPS Act. It was also held that prosecution failed to prove seizure of the contraband articles and also failed to prove chain of prosecution of contraband from the time it was seized till forwarded for forensic examination. Being aggrieved, the appellant has filed the present appeal challenging the impugned judgment and order of acquittal.

5. Mr. Raju Datta, learned PP appearing for the appellant- State, has submitted that the dry ganjas were seized under proper seizure list and were deposited in the District NDPS godown under Malkhana Register No.250 and subsequently were withdrawn and redeposited in the NDPS godown under proper certification and, thereby provisions of Section 52A(2) of the Act has been duly complied with. He has further submitted that though the Malkhana Register formed judicial part but the same could not be exhibited since the IO of the concerned PS could not be examined, and the trial court without affording opportunity to examine the IO closed the evidence. Learned PP has also submitted that the IO of the case also submitted detailed report under Section 57 of NDPS Act to the SP, Khowai, which also could not be exhibited due to non- examination of the IO. Learned PP has also submitted that the prosecution has well established its case by adducing oral and documentary evidence and mere non-exhibit of Malkhana register cannot warrant acquittal of the accused-respondent. Learned PP has also submitted that the contraband articles were seized by Page 4 preparing seizure list under signature of the available witnesses. Mr. Datta, learned PP has further submitted that there was no violation of Section 52A(2) or 42 or 57 of the NDPS Act. Learned PP has also submitted that the learned trial court did not appreciate the deposition of PW-9. He has also submitted that the seizure list was duly proved by the witnesses during trial. Learned PP has further submitted that the learned trial court did not consider the settled principle of law that no accused can be acquitted from criminal liability without facing proper trial and giving

reasonable opportunity to the prosecution agency. Mr. Datta, learned PP has further submitted that learned trial court whimsically closed evidence without examining the complainant enabling the prosecution to exhibit the documents, and most erroneously acquitted the accused-respondent. On to his submission, Mr. Datta, learned PP has placed reliance upon judgment of Hon'ble Apex Court in *Bharat Aambale vs. State of Chhattisgarh*, reported in (2025)8 SCC 452, paras 37 and 38; *Kailas vs. State of Maharashtra*, reported in 2025 SCC OnLine SC 1977, which deal of procedural provisions under Section 52A of the Act. Mr. Datta, learned PP has also referred to a judgment rendered by the Hon'ble Apex Court in *State of Rajasthan vs. Sahi Ram*, reported in (2019) 10 SCC 649, para 18, wherein it deals with the possibility and feasibility of production of the seized articles before the court.

6. To refute the submission of learned PP, Mr. lodh, learned Counsel appearing for the respondent-accused has submitted that the learned trial court has rightly closed the Page 5 prosecution evidence since there was total failure on the part of the prosecution to secure attendance of the I.O. Mr. Lodh, learned counsel has placed his argument in the following folds:

(i) malkhana register attached with the Memo of Appeal is full up of lacuna under prescription of law and the same was never produced before the trial court, hence the appellate court has no jurisdiction to look into the Xerox copy which was submitted by the appellant alongwith the memo of appeal; (ii) the prosecution did not file any application for adducing any additional evidence;

(iii) chain of custody of the contraband seized articles has not been established and there is serious discrepancy is depositing and re-depositing the same and also under whose custody the seized contraband articles were lying during performing the procedural aspects has no evidence thereby discarding the link;

(iv) additional evidence cannot be taken by the appellate court if the same was not produced in trial court during trial; (v) serious non-compliance of Section 52A(2) and 42 of the NDPS Act; Mr. Lodh, learned counsel has also stated the entire case is based on no evidence and failure on the part of prosecution to comply Section 52A(2) and 42 of NDPS Act, hence urged to dismiss the appeal upholding the acquittal of the respondent. In support of his submission, Mr. Lodh has placed reliance upon *Central Bureau of Investigation vs. Shyam Bihari & ors.*, reported in (2023) 8 SCC 197, para 27; *Mohammed Khalid & anr. Vs. State of Telangana* reported in (2024)5 SCC 393, paras 23, 25; *Karnajit Das vs. State of Tripura* [Crl.A(J) 29 of 2023, Page 6 decided on 30.07.2024]; Crl.L.P. 4 of 2024 [*Ebadul Islam vs. Rajjib Hossain @ Rajib & ors.*, decided on 22.04.2024]

7. We have gone through the case records and the orders contained therein.

8. The contraband articles were seized on 08.03.2022 from the possession of the respondent-accused and another and the same contains signatures of PW 3, 6 and 7 and they have proved their signature during the course of their deposition. In course of investigation, on the same

day, the IO prepared the inventory of the seized articles and alongwith the seized articles and the arrested accused persons returned to the PS and lodged the suo moto complaint, and thereafter on 09.03.2022 as per Court's order produced the seized articles before the court on 11.03.2022, and for correctness of the inventory took photograph in presence of learned JM, 1 st class, Khowai, and sealed the packets in brown colour packets with proper gala infront of the learned JM, 1 st class keeping Exhibit A and B, as representative sample in yellow colour packets under proper gala and seal of learned JM, 1st class, Khowai. Thereafter, the contraband articles wrapped in packets were deposited in District NDPS store for safe custody until disposal order from learned court. On 15.03.2022 through forwarding letter issued by SDPO, Teliamura, the same were sent to SFSL, Narsinghar, for examination and opinion and on 20.05.2022 received the SFSL report. Subsequently, upon prayer of the I.O., learned Special Judge(NDPS) by its order dated 08.06.2022 directed the I.O. to dispose of the remaining seized contraband items through Drug Page 7 Disposal Committee as per provision of Section 52A of the Act, and on 21.06.2022, the I.O. made prayer before the Chairman , State Drug Disposal Committee for such disposal. After disposal, the Chairman, State Drug Disposal Committee, issued certificate of destruction dated 10.08.2022. Thus, to substantiate the applicability of Section 52-A of NDPS Act, in the instant case, relevant sub-sections of Section 52-A of the Act are reproduced hereinbelow:

"52A. Disposal of seized narcotic drugs and psychotropic substances.-- [(1) The Central Government may, having regard to the hazardous nature, vulnerability to theft, substitution, constraint of proper storage space or any other relevant consideration, in respect of any narcotic drugs, psychotropic substances, controlled substances or conveyances, by notification in the Official Gazette, specify such narcotic drugs, psychotropic substances, controlled substances or conveyance or class of narcotic drugs, class of psychotropic substances, class of controlled substances or conveyances, which shall, as soon as may be after their seizure, be disposed of by such officer and in such manner as that Government may, from time to time, determine after following the procedure hereinafter specified.] (2) Where any [narcotic drugs, psychotropic substances, controlled substances or conveyances] has been seized and forwarded to the officer-in-charge of the nearest police station or to the officer empowered under section 53, the officer referred to in sub-section (1) shall prepare an inventory of such [narcotic drugs, psychotropic substances, controlled substances or conveyances] containing such details relating to their description, quality, quantity, mode of packing, marks, numbers or such other identifying particulars of the [narcotic drugs, psychotropic substances, controlled substances] or conveyances or the packing in which they are packed, country of origin and other particulars as the officer referred to in sub-section (1) may consider relevant to the identity of the [narcotic drugs, psychotropic substances, controlled substances or conveyances] in any proceedings under this Act and make an application, to any Magistrate for the purpose of--

(a) certifying the correctness of the inventory so prepared; or

(b) taking, in the presence of such magistrate, photographs of [such drugs, substances or conveyances] and certifying such photographs as true; or

(c) allowing to draw representative samples of such drugs or substances, in the presence of such magistrate and certifying the correctness of any list of samples so drawn. (3) Where an application is made under sub-section (2), the Magistrate shall, as soon as may be, allow the application.

(4) Notwithstanding anything contained in the Indian Evidence Act, 1872 (1 of 1972) or the Code of Criminal Procedure, 1973 (2 of 1974), every court trying an offence under this Act, shall treat the inventory, the photographs of [narcotic drugs, psychotropic substances, controlled substances or conveyances] and any list of samples drawn under sub-section (2) and certified by the Magistrate, as primary evidence in respect of such offence.]"

The purpose of Section 52A of the Act, provides a mechanism for disposal of seized narcotic substances before the conclusion of the trial because storing large quantities of such substances poses risks like theft, deterioration, and hazards to safety, and in procedure, it allows authorized officers to prepare an inventory, take photographs, and draw representative Page 8 samples of the seized substances in the presence of a Magistrate. These certified documents and samples are then admissible as primary evidence, allowing the bulk substance to be disposed of safely.

Further, prior to search and seizure, the O/C PS intimated the matter to his superior i.e. SP, Khowai and SDPO, Khowai, and the letter dated 08.03.2022 issued by the O/C, Mungiakami PS to the SP, Khowai District also reveals that immediately the matter was informed to the superior of the O/C PS. For better appreciation, the letter dated 08.03.2022 is reproduced below:

"The Superintendent of Police (C/S) Khowai District Tripura Reference.- Mungiakami P.S G.D.Entry No-12, date- 08/03/2022. Subject:- Information on violation of NDPS Act as per regulation U/S-42(2) of NDPS Act,1975 Sir, With reference to the above, I have the honour to report before your kind honour that, on 08.03.2022 at 1145 hrs Si Rathindra Debbarma informed to this P.S over mobile phone that during vehicle checkong at salbagan on NH 8 road found some brouwn colour packets are contain in two hidden box of one vehicle B/Regd. No RJ51-GA-0392 (Multi Axel Trailer), Which is suspected to be dry Ganja, the vehicle was coming from teliamura side towards Ambassa. Said officers also requested to visit the spot for taking legal action. Accordingly the matter noted in G.D vide Mungiakami P.S G.D. Entry No. 12, dated-08/03/2022. And the matter also infromed to SP(KHW) and SDPO TLM through mobile phone for permiss ion to conduct search as per law and also requested to SDPO TLM to come at Spot for taking lawful action of this information.

This is for favour of your kind information and thus oblige.

Yours faithfully Sd/Officer-in-charge Mungiakami Police Station Khowai District
Tripura"

Further, from the extract of GD Entry No. 12, dated 08.03.2022, it is also revealed that PW-10, SI Ratindra Debbarma prior to search and seizure, brought the matter to the knowledge of his superior i.e. SP, Khowai and SDPO, Khowai, and the said GD No. 12 is extracted hereunder:

"This time SI Rathindra Debbarma informed to this P.S over mobile phone that during vehicle checking at Salbagan on NH 8 road found some brown colour packets are contain in two hidden box of one vehicle B/Regd. No RJ51-GA-0392 (Multi Axle Trailer), which is suspected to be dry Ganja. The vehicle is coming from Teliamura Side towards Ambassa. Said officers also requested to visit the spot for taking legal action. Accordingly the matter noted in G.D and also informed to SP(KHW) and SDPO TLM through mobile phone for permission to conduct search as per law and also requested to SDPO TLM to come at Spot for taking lawful action of this information. Noted in G.D. Sd/ Duty Officer Date 08/03/2022"

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9. In the case in hand, it is seen that the seized NDPS items were recovered from the conscious possession of the respondents, inventory was drawn on the same date and correctness of the inventory was done by taking photograph in presence of learned JM, 1st class, Khowai and thereafter the same was wrapped under gala and seal of learned JM, 1st class and deposited in District NDPS store for safe custody until disposal order from learned court. Letter dated 09.03.2022 issued by the O/C PS also reveals that he has written letter to the Incharge of the District NDPS Store requesting him to arrange for depositing the seized packets of dry ganjas in the Store for safe custody. Vide letter dated 11.03.2022, the O/C PS requested the Incharge of District NDPS Store to allow him to take out the brown coloured packets containing dry ganjas for drawing sample and correctness of the inventory before the JM, 1st class against MR no. 250. Thereafter, upon communication the same was sent to SFSL and after collection of report through order of learned JM 1st class, the said contraband items were disposed of by State Drug Disposal Committee following issuance of certificate of destruction. Order dated 08.06.2022 passed by the learned trial Court also shows that there was a prayer for destruction of the contraband articles made by PW-10 and the said prayer was allowed by the learned trial court. Therefore, the foundational facts are established that raises an issue as regards the non-compliance of Section 52A of the NDPS Act.

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10. Section 57 of the NDPS Act mandates that any officer making an arrest or seizure under the Act must submit a full report of all the particulars of the arrest or seizure to their immediate official superior within 48 hours. On 08.03.2022, after search and seizure, the OC P/s arrested the accused-respondent and taken into custody. Thereafter, after reaching the PS, a suo- moto complaint was lodged. On the next day i.e. on 09.03.2022, the OC P/S submitted a detailed report as per section 57 of the NDPS Act before the Superintendent of Police, Khowai, which clearly reveals

that the OC P/S has complied the provision of Section 57 of the Act. Section 57 of the NDPS Act, reads as follows:

"57. Report of arrest and seizure.--

Whenever any person makes any arrest or seizure, under this Act, he shall, within forty-eight hours next after such arrest or seizure, make a full report of all the particulars of such arrest or seizure to his immediate official superior."

11. Regarding non-production of Malkhana register before the trial court during a trial is not necessarily fatal to the prosecution's case. On close scrutiny of the record, it appears that neither the seized articles nor the remaining of the samples has been produced before the Trial Court. Now the question that emerges is when there is legal evidence available on record of the recovery of contraband articles from the possession of the respondent which, on chemical examination, found to be ganja, and which has also not been rebutted by the respondent by cogent evidence, except stating that they had been falsely been implicated in this case, whether the same is unsustainable in law on the ground that recovered articles have not been produced in the Court. In view of this court, regarding safeguard of the seized Page 11 item, viewing chance of tampering and also whether the recovered and sealed item reached to the chemical laboratory, from the materials available on record, this court do not find any such infirmity. To add, if Malkhana register has not been produced in the Court, it will not make any difference because after drawing samples before the JM, 1st Class the same were kept intact under seal and gala, the same were sent to SFSL after affixing seal, and SFSL received the samples intact and the same will reveal from Order dated 11.03.2022 passed by the learned trial court. In these circumstances, it is apparent that there was no opportunity to tamper with the impression of seal. That apart, the report of SFSL dated 25.04.2022 also shows that the yellow coloured parcel they received was sealed with 08 wax seals with impression of SDPO, Teliamura. On 08.03.2022 the IO alongwith PW-1, 2, 3, 6, 7, 8, 10 seized the vehicle and the contraband articles. Thereafter, PWs 3,6,7,8 and 10 put their signatures on the seizure list and the same were exhibited during trial on confirmation by the said PWs. PW-1 stated that after seizure, the seized items were taken to PS. PW 5 was in-charge of District NDPS godown in whose presence the packets were produced before the court and were again deposited to the godown. PW-8 during cross-examination stated that he has sent the samples to SFSL on 15.03.2022. PW-9 in his deposition stated that on 11.03.2022 the contraband items were withdrawn under MR No. 250 and was again deposited to NDPS godown. PW-10 is the complainant of the suo-moto complaint. The defense during trial failed to discard the prosecution evidence except mere denial.

Page 12 The I.O. of the case prepared inventory and for correctness drawn sample and taken photographs and kept the same in godown for safe custody, thereafter, sent the sample to SFSL through SDPO, collected the report, prayed for pre-trial disposal of the contraband items and as per order of learned court arranged for disposal of the same and thereby produced the certificate of destruction. The IO has investigated the case in detail and submitted his charge-sheet which in all circumstances establishes the link from seizing to destruction, thus, no link has been found missing or doubtful in the case of the prosecution. Further, from the cross examination put to the prosecution witnesses, it has been found that the defence has not challenged the authenticity of

depositing of the case property with the Malkhana to none of the witness of the prosecution, so examined. The prosecution has proved that the seized items remained safe and un-tampered from the moment of seizure until they reached the forensic laboratory. The contraband articles were seized by the police during vehicle checking. Following the seizure, the necessary formalities were observed, and the samples of the contraband were drawn, sealed, and sent to the SFSL for examination, which confirmed the substance as ganja, and the same has well been proved by the prosecution witnesses and documents relied therein. In view of all this, this Court is of the opinion that non-production of Malkhana register in the Court is in no way fatal to the prosecution case and the respondent is not entitled to have any benefit of this lacuna.

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12. Section 42 of the NDPS Act, empowers specific central and state government officers to enter, search, seize, and arrest individuals involved in drug-related offenses without a warrant. Section 42(1) of the NDPS Act empowers authorized officers to conduct searches, seizures, and arrests in buildings, conveyances, or enclosed spaces without a warrant. Crucially, if the officer acts on prior information, they must record it in writing and forward it to a superior official. Section 42(2) of the NDPS Act, 1985 is a crucial procedural safeguard. It mandates that whenever an empowered officer records prior information or grounds for belief about a drug-related offense, they must send a written copy of this information to their immediate superior officer within 72 hours. Turning to the facts of the case, the I.O. was not examined in trial. However, on 08.03.2022, SI Rathindra Debbarma alongwith staffs left the PS for vehicle checking by Mungiakami PS GDE No. 11, and while on checking they detained a vehicle bearing registration no.RJ51-GA-0392 and on spot checking they found two box hidden under the trailer suspected to be dry ganja. Then and there he informed O/C, PS and SDPO over mobile and requested them to come to the spot for taking lawful action which refers to Mukgiakami PS GDE No. 12, dated 08.03.2022. On reaching, they conducted search into the vehicle and recovered 292 kgs. of dry ganjas packed in 30 packets and in presence of witnesses seized the same by preparing seizure list. The information was received when the officer was not in the police station, but while he was on patrol duty and when the information calls for immediate action, without any delay he Page 14 recorded the information in writing and forthwith informed the same to the official superior. Thereafter, the search and seizure was made following the mandates of NDPS Act. Subsequently, a detailed report was sent to SP, Khowai on 09.03.2022.

13. PW-2, Goutam Debbarma, is IO of the case, and non- examination of the IO made the seizure lists and the malkhana register unproved. IO of the case is most crucial witness to prove both the seizure list and the malkhana register. His testimony establishes the "chain of custody," which proves that seized evidence was safely stored and never tampered with before reaching court. Since the IO failed to depose before the trial court, the respondent has been acquitted from the case. A court cannot automatically acquit an accused under the NDPS Act merely because the witnesses did not turn up. Courts have the power to compel the attendance of witnesses using various provisions of the Criminal Procedure Code. The court must assess the entire evidence presented and determine if the prosecution has proven its case beyond a reasonable doubt, even in the absence of certain witnesses. To ensure appearance of a witness, the court uses legal mechanisms by rendering summon upon the witness and if the witness fails to appear after being served with a summons, the

court can issue a bailable or non-bailable warrant to compel his/her attendance, but, the learned trial court refrains itself from adopting such procedure rather closed the evidence without securing evidence of the vital witnesses. It is primarily the prosecution's responsibility to file an application for securing the evidence of its witnesses, but the court possesses overriding Page 15 powers to summon any witness on its own, if the evidence is essential for justice, but in this case, the trial court did not take any step for securing evidence of the vital witness (IO). This Court is of the view that the trial court had committed error in law in acquitting the accused-respondent without securing evidence of rest of the prosecution witnesses.

14. As per Section 57 of the Act, the OC P/S made a detailed report of arrest and seizure to his superior on 09.03.2022 i.e. within 48 hours. As per Section 52(A) of the N.D.P.S. Act before disposal of seized psychotropic substances, an inventory has been prepared and an application was made to the Magistrate for the purpose of certifying the correctness of the inventory, in presence of Magistrate, photographs of such drugs was taken and thereby certification of correctness was drawn, and thereafter, on approval of Magistrate, disposal of the seized narcotic items was done by Disposal committee following completion of chain of custody. Thus, provision of Section 52(A) and 57 of the Act has been complied with.

15. Further, in the present case, PW-10 alongwith PS staffs while were on vehicle checking duty vide Mungiakami PS GDE No 11 detained a vehicle and on checking at the spot found two boxes hidden under trailer suspected to be dry ganja and then and there he detained the driver and co-driver of the vehicle and conveyed the information to his immediate superior i.e. the SDPO, Teliamura and O/C, Mungiakami PS, Goutam Debbarma (IO of the case) requesting them to come to the spot immediately for taking lawful action and the same refers to Mungiakami PS GDE No. 12, and Page 16 thereafter the proceeding for search, seizure and arrest continued. Had they not done so immediately, the opportunity of seizure and arrest of the respondent-accused would have been lost. On these facts, this Court finds that no inference could be drawn that there has been violation of Section 42 of Act."

16. From the aforesaid decisions, it is revealed that if the seizure of the material is otherwise proved on record and is not even doubted or disputed, the Malkhana record need not be placed before the court. From the evidence of PW-5 and PW-9 it is revealed that the seized contraband articles were deposited, withdrawn and re-deposited following proper safeguard. The fact that the samples taken from and out of contraband material was kept intact and was done in presence of the Magistrate, and when the samples were submitted for forensic examination the seals were intact, thus, the essential ingredients constituting an offence are made out.

17. However, another notable fact that comes to our notice is that after recovery and seizure of the alleged contraband items, all those items were produced before the learned Judicial Magistrate, 1st Class, Khowai, after preparation of an inventory by the OC, Mungiakami PS and the inventory, photographs and list of samples of seized items were also certified by the learned Judicial Magistrate, 1st Class, Khowai. But, those documents are lying in the record and the prosecution did not take any steps during the trial to prove those documents into evidence though as per Section 52-A, those documents are to be treated as primary evidence. Even the Investigating Officer did not

cite the said Judicial Page 17 Magistrate, 1st Class, Khowai, as a witness of the case. In such a serious nature of offences, it is quite unfortunate that proper steps were not taken from the side of the Investigating Officer and the prosecution to prove all these documents into evidence. We, therefore, feel that the prosecution should get an opportunity to prove such documents into evidence after complying with the due procedure of law for due administration of justice. Even the learned Special Judge also missed that aspect though he had the ample authority, as discussed earlier, to summon the required witness to prove those documents.

18. In fine, the impugned judgment dated 19.05.2025 passed by the learned Special Judge Court No.2, Khowai, Tripura, in case No. Special (NDPS) 64 of 2022, is hereby set-aside. Accordingly, the matter is remanded back to the learned Special Judge(NDPS), Khowai, Tripura, with a direction to conduct a fresh trial by calling upon rest of the prosecution witnesses. However, it is made clear that reasonable opportunity shall be afforded to the prosecution witnesses to depose before the court and take on record the un-exhibited documents. The prosecution will also be at liberty to file necessary application for summoning the concerned witnesses to prove said inventory, photographs and list of samples as certified by Judicial Magistrate and of course, defense will have the liberty to adduce rebuttal evidence, if any, on that point. It is further made clear that after closure of evidences of all the prosecution witnesses, learned Court below shall deliver its judgment afresh. The entire exercise shall be completed expeditiously.

Page 18 The appeal stands allowed to the extent as indicated above, and the matter is remanded back to the Trial Court by setting aside the impugned judgment. Pending application(s), if any, also stands disposed.

19. The accused-respondent is directed to surrender before the learned trial Court on or before 15.06.2026. Upon his surrender, the learned trial Court may consider the bail application, on such terms and conditions as the accused/ convict was released after the trial court judgment, the balance of convenience is in favour of the accused/convict.

S.DATTA PURKAYASTHA, J

DR.T. AMARNATH GOUD, J

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Date: 2026.05.20

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