

**Present: C.B. Gogoi, Special Judge,  
Sonitpur, Tezpur.**

**Spl(NDPS) PS Case No. 30/2021**

**ORDER**

**16-11-2021**

Accused Numal Nath is produced from judicial custody.

On perusal of the case record, it transpires that police allegedly seized 1140 Grams of suspected cannabis from the possession of accused Numal Nath and he was arrested by police on 06-07-2021. Since then accused has been in judicial custody. But, the quantity of drugs allegedly seized by police was small in quantity however accused has been languishing in jail since 06-07-2021 for about 133 days.

In view of the above, accused Numal Nath is enlarged on bail of Rs. 10,000/- (Rupees Ten Thousand) with one local surety of like amount I/D Jail to the satisfaction of the learned Magistrate.

On perusal of record, it also reveals that on completion of investigation police submitted charge-sheet against accused u/s 20(b) NDPS Act which is however not proper citation of provision of law for filing charge-sheet. The FSL report reveals that the sample gave positive test for cannabis (ganja). Nevertheless, the quantity of drugs seized was 1140 Grams which is small quantity. As per Section 36 (A)(i)(a) of NDPS Act all offences under this act which are punishable with imprisonment for a term of more than 3 (three) years shall be tried only by the Special Court constituted for the area. But, in the present case the alleged quantity of drugs seized by police fall within the parameters of Section 20 (b) (ii) (A) NDPS Act though police submitted the charge-sheet u/s 20(b) NDPS Act which is prima facie wrong.

Since, offence u/s 20(b)(ii)(A) of NDPS Act is punishable with rigorous imprisonment for a term which may extend to 1 (one) year or with fine which may extend to Rs. 10,000/- or with both, the offence therefore, appears to be triable by Magistrate only.

In view of the above, the case is forwarded to the court of Chief Judicial Magistrate, Sonitpur, Tezpur for trial/ disposal.

The accused is accordingly directed to appear/produce before the court of Chief Judicial Magistrate, Sonitpur, Tezpur for trial on the next date fixed.

In the meantime, accused Numal Nath is remanded to jail till **30-11-2021**.

Special Judge,  
Sonitpur, Tezpur.