

OFFICE OF THE SESSIONS JUDGE, NAGAON

DJN/No/

Dated

CIRCULAR

Sub: Small quantity offences under the Narcotic Drugs and Psychotropic Substances Act, 1985 certain instructions issued to the Judicial Magistrates of First Class in Nagaon-Regarding.

It has been brought to the notice of the undersigned that the Judicial Magistrates of First Class in the Nagaon District are forwarding all the accused to the Special Courts constituted under the Narcotic Drugs and Psychotropic Substances Act, 1985 in Nagaon particularly those cases which are not triable by the Special Courts.

Section 36A (I)(a) of the NDPS Act, 1985, provides that all the offences under the said Act which are punishable with imprisonment for a term of more than 3 years shall be triable only by the Special Court.

The said provision read with Section 4(2) and Section 5 of the Bharatiya Nagarik Suraksha Sanhita, 2023, clearly suggests that those offences under the NDPS Act which are not punishable with imprisonment of more than 3 years are to be tried by any Magistrates including Judicial Magistrate of the 1st Class and for such purposes the provision of Bharatiya Nagarik Suraksha Sanhita, 2023 are to be generally followed, except where expressly excluded or applied with further modifications under the NDPS Act, 1985.

From the above, it appears that the Magistrate of First Class may try the following offences under the NDPS Act:

Sl. No.	Section	Nature of Offence
1	15(a)	Contravention in relation to small quantity of poppy straw.
2	17(a)	Contravention in relation to small quantity of prepared opium.
3	18(a)	Contravention in relation to small quantity of opium poppy and opium.

4	20(b)(ii)(A)	Contravention in relation to small quantity of cannabis.
5	21(a)	Contravention in relation to small quantity of manufactured drugs and preparations.
6	22(a)	Contravention in relation to small quantity of psychotropic substances.
7	23(a)	Illegal import into India, export from India or transshipment of small quantity of narcotic drugs and psychotropic substances.
8	25	Allowing premises, etc., to be used for commission of an offence (involving small quantity of narcotic drugs and psychotropic substances).
9	26	Certain acts by licensee or his servants such as omitting to maintain accounts, keeping false accounts, failing to produce licence before authority and willful breach of the licence, permit or authorization.
10	27	Consumption of narcotic drug or psychotropic substance such as cocaine, morphine, diacetyl-morphine or any other narcotic drug or any psychotropic substance as may be specified in this behalf by the Central Government by notification in the Official Gazette.
11	28	Attempt to commit any of the aforesaid offences (involving small quantity of contraband).
12	29	Abetment of or conspiracy to commit any of the aforesaid offences (involving small quantity of contraband).
13	32	Offence for which no punishment is provided in the Act.

Therefore, all the Judicial Magistrates of First Class in Nagaon District are directed not to Forward accused involved in the aforesaid offences, to the Special Courts constituted under the NDPS Act in Nagaon and to try such offences in their

respective jurisdiction/Courts only in terms of provisions laid down in the NDPS Act read with the provisions of the BNSS, 2023.

This is for implementation with immediate effect.


Sd/-
(Biswajit Chakraborty, AJS)
Sessions Judge, Nagaon
Cum
Special Judge under the NDPS Act,
Nagaon

Memo.No.DJN/ 1470-1477

Dated : 21.02.2025

Copy for information and necessary action:-

- 1) The Addl. District & Sessions Judge, No-1. Nagaon.
- 2) The Addl. Sessions Judge -cum-Special Judge POCSO, Nagaon.
- 3) The Addl. District & Sessions Judge, No-2, Nagaon.
- 4) The Addl. District & Sessions Judge, No-3, Nagaon.
- 5) The Addl. District & Sessions Judge, FTC, Nagaon.
- 6) The Chief Judicial Magistrate, Nagaon for circulation amongst all concerned.
- 7) The System Officer for uploading in the website of the Nagaon District Judiciary.
- 8) Office copy.


(Biswajit Chakraborty, AJS)
Sessions Judge, Nagaon
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Special Judge under the NDPS Act,
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