



Serial Nos. 03 & 04 Supplementary List

HIGH COURT OF MEGHALAYA
AT SHILLONG

BA. No. 22 of 2026 with
BA. No. 23 of 2026

Date of Decision: 15.05.2026

BA. No. 22 of 2026

Smti. Shipra Deb,
W/o Shri. Bhuban Deb,
R/o Jhalupara Barapathar,
Shillong, East Khasi Hills District,
Meghalaya.

..... **Petitioner**

- Vs-

1. The State of Meghalaya represented by
Secretary (Home),
Government of Meghalaya.
2. The Superintendent of Police,
East Jaintia Hills District, Meghalaya.

..... **Respondents**

BA. No. 23 of 2026

Shri. Tamizur Rahman Barbhuya,
S/o (L) Tajamul Ali Barbhuya,
R/o Kalain, Lakhipur Part-I,
Kachar District,
Assam.

..... **Petitioner**

- Vs-

1. The State of Meghalaya represented by



Secretary (Home),
Government of Meghalaya.

2. The Superintendent of Police,
East Jaintia Hills District, Meghalaya.

..... Respondents.

Coram:

Hon'ble Mr. Justice W. Diengdoh, Judge

Appearance:

For the Petitioner/Appellant(s) : Mr. S.S. Yadav, Adv.
Mr. S. Purkayastha, Adv.

For the Respondent(s) : Mr. R. Gurung, GA.
Mr. K.P. Bhattacharjee, GA.

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| i) | Whether approved for reporting in
Law journals etc.: | Yes/No |
| ii) | Whether approved for publication
in press: | Yes/No |

COMMON JUDGMENT AND ORDER (ORAL)

1. Heard learned counsels for the parties.
2. These two bail applications involving similar and identical facts are proposed to be disposed of by this common judgment and order.
3. This is an application for grant of bail made under Section 483 of the BNSS, 2023, wherein, the husband of the petitioner, Shri. Bhuban Deb, who is an accused in BA. No. 22 of 2026, was arrested on 26.11.2025.
4. Similarly, the brother of the petitioner, Shri. Tafajul Hussain



Barbhuya, who is an accused in BA. No. 23 of 2026, was also arrested on the same date in connection with the same offence relating to Lumshnong P.S. Case No. 29 (11) 2025 under Section 8(c)/21(b)/25/29 NDPS Act which was registered pursuant to an FIR dated 26.11.2025.

5. On investigation launched, the charge sheet has been filed with the Investigating Officer, finding a prima facie case well-established against the abovementioned accused persons, and they are directed to stand trial before the court of competent jurisdiction.

6. However, in the meantime, the petitioners have approached this Court by way of a separate application with a prayer for grant of bail, the main ground raised being that they have not been intimated of the grounds of their arrest, as such, the provision of Article 22 (1) of the Constitution of India being violated, their fundamental rights being denied, therefore, this Court is approached with the prayer made herein.

7. Without going into the details on the facts and circumstances of the case, Mr. R. Gurung, learned GA appearing for the State respondent, has fairly admitted that the authorities concerned, at the time when the arrest was made, has through inadvertence failed to comply the said formalities, e.g., that the intimation of the grounds of arrest has not been conveyed to the accused persons. In view of the legal possession in this regard, it is prayed that this Court may



pass necessary orders.

8. Mr. S.S. Yadav, learned counsel for the petitioner has led this Court to the averment made in this petition at para 9 and 10, wherein the authority in the case of **Mihir Rajesh Shah v. The State of Maharashtra: (2026) 1 SCC 500**, has been extracted, particularly para 66 which reads as follows:

“66. In conclusion, it is held that:

66.1. The constitutional mandate of informing the arrestee the grounds of arrest is mandatory in all offences under all statutes including offences under IPC 1860 (now BNS 2023);

66.2. The grounds of arrest must be communicated in writing to the arrestee in the language he/she understands;

66.3. In case(s) where, the arresting officer/person is unable to communicate the grounds of arrest in writing on or soon after arrest, it be so done orally. The said grounds be communicated in writing within a reasonable time and in any case at least two hours prior to production of the arrestee for remand proceedings before the Magistrate.

66.4. In case of non-compliance of the above, the arrest and subsequent remand would be rendered illegal and the person will be at liberty to be set free.”

9. On perusal of what has been held in the said case, wherein, it has been directed that it is the constitutional mandate for the grounds of arrest to be intimated to all those who are arrested, and such grounds has to be communicated to the arrestee in the language he/she understands, the said ground to be communicated within a reasonable time and in any case at least two hours prior to production of the arrestee for remand proceedings before the



Magistrate.

10. Obviously, the above has not been followed in this case.

11. Consequently, this Court is of the opinion that on this ground alone, the accused persons in question have to be set at liberty as has been indicated in the said Mihir Rajesh Shah case.

12. Accordingly, the accused persons are directed to be released on bail on the following conditions:

- i) That they shall not abscond or tamper with the evidence or witnesses;
- ii) That they shall attend court as and when called for;
- iii) That they shall not leave the jurisdiction of Meghalaya, except with due permission of the court concerned; and
- iv) That they shall bind themselves on a personal bond of ₹ 50,000/- (Rupees fifty thousand) only with two local sureties of like amount to the satisfaction of the Trial Court.

13. In view of the above, these petitions are disposed of accordingly. No costs.

Judge