



Serial No. 10
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

BA. No. 43 of 2026

Date of Decision: 06.07.2026

Deepa Hazarika
Aged about 50 years
Wife of Dip Hazarika
Resident of Zoo Narangi Road
Geetanagar, Chinakipath, P.S. Geetanagar
District Kamrup (M), Assam

..... **Petitioner**

- Vs -

1. State of Meghalaya,
Represented by the Public Prosecutor,
Meghalaya

..... **Opposite Party**

Coram:

Hon'ble Mr. Justice W. Diengdoh, Judge.

Appearance:

For the Petitioner/Appellant(s)	:	Mr. A.K. Bhuyan, Sr. Adv with Mr. H. Kalita, Adv. Mr. S. Chowdhury, Adv.
For the Respondent(s)	:	Mr. R. Gurung, GA. Mr. H. Kharmih, Addl. PP.

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



JUDGMENT AND ORDER (ORAL)

1. Heard Mr. A.K. Bhuyan, learned Sr. counsel for the petitioner, who has submitted that this petition has been filed on behalf of the accused, Dip Hazarika, who was arrested on 13.06.2026 and is still in custody till date in connection with Tura P.S Case No. 70/2026 under Section 336(2)(3)/318(4)/338/111(2)(b) BNS, 2023.

2. It is the submission of the learned Sr. counsel that the case immates from the FIR dated 13.06.2026 lodged by UBSI Gaurav B. Koch of Tura Police Station, the case essentially being that of fraud said to have been committed on one person by the name of Sonu Banlae to the tune of ₹ 3,00,000/- (Rupees three lakhs) only, the name of the accused has been of the petitioner has also appeared as one of the accused persons involved in the case.

3. The learned Sr. counsel has further submitted that the accused husband of the petitioner (referred to as accused hereinafter) was firstly detained at Greenwood Hotel, Guwahati Assam on 12.06.2026 at about 10:00 to 10:30 AM, without producing him before the Magistrate having jurisdiction over the place of arrest, he was straight away taken to Tura, West Garo Hills, Meghalaya, and by way of a forwarding report dated 13.06.2026 filed before the learned Court of the Chief Judicial Magistrate, West Garo Hills, Tura, a prayer was made to remand the accused to police custody for a period of 7(seven) days.



4. It is the contention of the learned Sr. counsel that the whole process of arrest and custodial incarceration of the accused person is a violation of the due process of law and the relevant provision of the Constitution of India as well as that of the BNSS, 2023. In this regard, the learned Sr. counsel has submitted that Section 48 of the BNSS have been violated, inasmuch as, at the time of his arrest, it is the duty of the police to inform the relatives, friends or such other person as may be disclosed or nominated by the arrested person for the purpose of giving such information, which was not done so in the case of the accused person herein. This is also a violation of the principle laid down in the case of **D.K. Basu vs. State of W.B (1997) 1 SCC 416**, para 35(6), wherein the Supreme Court has directed that “(6) *An entry must be made in the diary at the place of detention regarding the arrest of the person which shall also disclose the name of the next friend of the person who has been informed of the arrest and the names and particulars of the police officials in whose custody the arrestee is*”.

5. The next limb of argument advanced by the learned Sr. counsel is that there is a violation of the fundamental rights of the accused person, inasmuch as, he was firstly detained by the police at Guwahati in the State of Assam and without producing him before the Jurisdictional Magistrate for transit remand, he was straight away taken to another State that is, Meghalaya and



produced before the learned CJM at Tura. This according to the learned Sr. counsel, is a violation of the Constitutional Provision of Article 22 Clause 2, which provides as follows:

“22. Protection against arrest and detention in certain cases. –

(2) Every person who is arrested and detained in custody shall be produced before the nearest magistrate within a period of twenty-four hours of such arrest excluding the time necessary for the journey from the place of arrest to the court of the magistrate and no such person shall be detained in custody beyond the said period without the authority of a magistrate.”

6. The case of **Directorate of Enforcement v. Subhash Sharma** was cited by the learned Sr. counsel, wherein vide order dated 21.01.2025 passed in Special Leave Petition (Criminal) No. 1136/2023 at para 5, 6, 7 and 8, the Supreme Court has laid stressed on the application of the fundamental rights of an accused person under Article 21 and 22 of the Constitutions of India and has held that violation of such constitutional provision at the time of arrest of the accused would enable him to be released on bail.

7. In view of the above, the learned Sr. counsel has submitted that the caused of such serious procedural lapses affecting the fairness of the arrest of the accused person herein, therefore, a prayer is made for grant of bail with any conditions to be imposed by this Court, considering the fact that the accused person is a permanent resident of Guwahati, Assam and has no criminal antecedent, he is further committed to cooperate with the investigation and to



appear before the Investigating Officer (I/O) as and when required.

8. Per contra, Mr. R. Gurung, learned GA appearing on behalf of the State respondent has fairly submitted that records would show that the accused person was not produced before the Jurisdictional Magistrate at Guwahati at the time of his arrest. However, reference has been made to page 21 and 22 of this petition, wherein is found annexed the Memorandum of Arrest and the details therein, which would indicate that the arrested person was duly intimated of the reason of his arrest and that his relatives who is his cousin brother has been duly intimated of such arrest, his signature as Nitu Sarma being evident at page 22 of this petition, therefore, it cannot be said that the direction of D.K. Basu case was ever violated. It is therefore prayed that this petition is devoid of merits and the same be dismissed.

9. This Court having heard the parties, and on perusal of the case diary as well as the petition in hand, and considering the facts as revealed by the learned Sr. counsel for the petitioner, is convinced that the accused person herein was intercepted and detained at the first instance at Greenwood Hotel, Guwahati, in the State of Assam and was then taken directly to Tura in the West Garo Hills District of Meghalaya where he was formally arrested. Between the time of his detention and the actual time of arrest, notwithstanding the fact that he was never produced before the Magistrate at the first instance, according to the petitioner,



the period of detention has cross 24 hours.

10. In the case of **Biswajit Mandal v. Inspector, Narcotic Control Bureau, Cochin Zonal Unit**, vide order dated 12.08.2025 in BAIL APPL. No. 8581 of 2025, the Kerala High Court at para 20 of the same has held that the period of 24 hours to produce the accused before the Magistrate runs from the time when the accused was effectively detained. This proposition would apply to the case of the accused person herein.

11. Without proceeding further, this Court is convinced that there have indeed been procedural lapses on the part of the arresting authority as far as the accused person is concerned, and as such, his arrest is not in accordance with law. He is therefore entitled to be granted bail.

12. Accordingly, the prayer of the applicant is hereby allowed, the accused person in question is hereby directed to be released on bail on the following conditions:

- i) That he shall not abscond or tamper with the evidence or witnesses;
 - ii) That he shall attend court as and when called for;
 - iii) That he shall not leave the jurisdiction of Meghalaya and Assam, except with due permission of the court concerned;
- and



- iv) That he shall bind himself 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, this petition is disposed of accordingly. No costs.

Judge