



Serial No. 01
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

BA. No. 64 of 2026 with
BA. No. 65 of 2026

Reserved Date: 10.08.2026
Pronouncement Date: 12.08.2026

BA. No. 64 of 2026

Shri Saem Hussain,
S/o Shri Sayed Huyssain,
R/o Mizmizi village,
Sub-Division Narayanganj, P.S. Siddirgoan,
District Narayanganj, Bangladesh

..... Applicant

Vs.

State of Meghalaya represented by the Public
Prosecutor

..... Respondent

BA. No. 65 of 2026

Shri Mafuzur Rahman,
S/o (L) Rehan Uddin,
R/o Kuruin village, Sub-Division Chitagong,
P.S. Davidwar, District Cummillah,
Bangladesh.

..... Applicant

Vs.

State of Meghalaya represented by
The Public Prosecutor

..... Respondent

**Coram:****Hon'ble Mr. Justice W. Diengdoh, Judge**

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

Appearance:

For the Petitioner/Appellant(s)	:	Mr. B. Deb, Adv. with Ms. P. Kharmawshun. Adv.
For the Respondent(s)	:	Mrs. N.G. Shylla, Sr. GA with Ms. I. Lyngwa, GA.

COMMON JUDGEMENT AND ORDER

1. These two bail applications arose from a common case and with identical facts and circumstances, as such, it is deemed proper and convenient to pass a common judgment and order, which is done so herein.

2. Heard Mr. B. Deb, learned counsels for the applicants, who has submitted that an FIR dated 08.08.2025 was lodged by one Shri. Jitha T. Sangma before the Officer In-charge, Nonghyllam PS, South West Khasi Hills District, informing the police of an incident which took place on 08.08.2025 around 1:00 AM to 2:00 AM when some suspected Bangladeshi Nationals forcefully entered into the shop of Shri. Salcheng A. Sangma and armed with the pistol pointed at the head of Shri. Balsrang A. Marak, demanded money and phone number of the shop owner. Subsequently, Shri. Balsrang A. Marak was



handcuff and kidnapped and when he tried to run away, the miscreants fired one round and beat him up seriously injuring him, they then took of the handcuff, whereupon, he was taken to Khonjoy CHC for treatment.

3. On the FIR being registered, investigation was launched in connection with Nonghyllam P.S Case No. 09 (08) 2025 under Section 3(5)/109(2)/118(2)/140(1)/308(5)/332(a)/333 BNS, read with Section 25/27 Arms Act, Section 14 Foreigners Act and Section 05 Explosive Substances Act. The Investigating Officer (I/O) has conducted the investigation and has caused the arrest of the applicants, and in due course, the charge sheet was filed with an indication that prima facie case is found well-established against the said accused person/applicants among others and they were made to stand trial before the Trial Court. The case before the Trial Court is for recording of evidence of the prosecution witnesses.

4. It is the submission of the learned counsel that an earlier bail application has been preferred by the applicants before the Trial Court, but the same was rejected on the ground that they are admittedly Bangladeshi Nationals, and, if enlarged on bail, they are likely to abscond to Bangladesh.

5. The learned counsel has contended that this is not the correct approach and proper decision by the Trial Court, inasmuch as, even, if the applicants who are under trial prisoners (UTP) are Foreign Nationals being



arrested and incarcerated in custody in India, there are a number of authorities by the Supreme Court and other High Courts which have held that such person are also eligible to be extended the rights to life ‘*as enshrined under Article 21 of the Constitution of India*’, the case of **Customs v. Faridah Nakanwagi**, was referred to by the learned counsel, where the Supreme Court in **Special Leave to Appeal (Crl.) No. 2725/2026** vide order dated 18.03.2026 at para 4 has observed as follows:

“4. ... Here is a case of a lady accused who is a foreign national. However, the fact remains that Article 21 of the Constitution would apply even to a foreign national sought to be prosecuted as an accused in this country. Once an accused has been able to make out case a for bail, then factors like financial difficulties etc. should not come in the way of an accused in getting himself or herself released on bail.”

6. In the quest for the prayer for grant of bail on behalf of the said applications/UTPs, the learned counsel has also submitted that the I/O have failed to comply with the fundamental procedure of law as regard arrest and detainment of an accused person, and the fact that the grounds of arrest have not been intimated to the accused persons at the time of arrest, therefore, the authority laid down by the Supreme Court in the case of **Prabir Purkayastha v. State (NCT of Delhi) (2024) 8 SCC 254**, para 49 and the case of **Vihaan Kumar v. State of Haryana and Anr, AIR 2025 SC 1388**, para 13, 14 and 21(b), has not been followed, as far as the applicants/accused persons are



concerned. Therefore, only on this ground alone, the released of the applicants on bail is found justified, submits the learned counsel.

7. The learned counsel has also submitted that from the evidence of the prosecution witnesses, it is seen that no direct evidence has emerged to implicate or to point the needle of guilt towards the applicants/accused persons herein. As such, under such circumstances, being able to provide proper surety and to abide by any conditions that this Court may impose, it is prayed that bail may be granted to the applicants herein.

8. Per contra, Mrs. N.G. Shylla, learned Sr. GA assisted by Ms. I. Lyngwa, learned GA appearing for the State respondent has vehemently opposed the prayer made herein, firstly, on the ground that the accused persons are Bangladeshi Nationals, and, if released on bail, there is every possibility that they will jump bail and the trial will thus be affected. Secondly, since 8(eight) out of 10(ten) witnesses have been examined as prosecution witnesses, including the I/O, therefore, it would be prudent to allow the trial to come to its logical end which would be only a matter of a short time. As such, releasing the applicants/accused persons on bail at this stage would not be proper, considering the seriousness of the offences alleged against them.

9. This Court has considered the submission made and has also gone through the applications and the annexures therein. As has been submitted,



admittedly, the applicants/accused persons are Bangladeshi Nationals and has not been able to name any local surety who will vouch for them. However, since the authority cited, that is, the case of Faridah Nakanwagi (supra) being applicable to the applicants, even though, they are foreign nationals, if eligible for bail, the same would be granted to them.

10. Facts of the case would reveal that the charges against the applicants are very serious in nature, and as such, if bail is to be granted, this is one of the parameters that has to be considered by this Court.

11. The fact that out of 10(ten) prosecution witnesses, 8(eight) have already been examined, therefore, the submission of the learned Sr. GA in this regard, is found acceptable.

12. As to the contention of the learned counsel for the applicants, that the applicants have not been intimated of the grounds of arrest, this ground having not been taken before the court concerned at the first instance as soon as all the necessary papers have been handed over to the applicants/accused person, therefore, at this stage, it can be said that no prejudice would be caused to the applicants/accused persons, considering the fact that the trial is entering the final stage.

13. In view of the above, this Court is of the considered opinion that the



applicants/accused persons have not been able to make out a case for grant of bail. These two applications are hereby dismissed as devoid of merits.

14. Petitions disposed of. No costs.

Judge