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THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : Bail Appln./1447/2026

NENGJAHOI HAOKIP AND ANR
W/O JANGHKHONGAM HAOKIP, R/O MONGTHAM, P.S. SAGOLMANG,
DIST.- SENAPATI, MANIPUR

2: NENGNEITHEM HAOKIP
W/O TILPA HAOKIP
R/O MONGTHAM
P.S. SAGOLMANG
DIST- SENAPATI
MANIPU

VERSUS

STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR

Advocate for the Petitioner : MR D MEDHI, MR. J N SUWAI,MR. S SARKAR

Advocate for the Respondent : PP, ASSAM,

BEFORE

HON'BLE MR. JUSTICE SANJEEV KUMAR SHARMA

ORDER

15.07.2026

Heard Mr. D. Medhi, learned counsel for the petitioner. Also heard Ms. B. Sharma, learned Additional Public Prosecutor for the State.

2. This is an application filed under Section 483 of the BNSS, 2023 whereby the petitioner, Makakmayum Rahman has prayed for releasing him on bail after he was arrested in connection with Guwahati P.S. Case No. 150/2025 registered under Sections 21(c) of the ND&PS Act.

3. The case of the petitioner is that the informant lodged an FIR on 18.04.2026 before the Officer-in-Charge of Guwahati GRPS Police Station to the effect that while conducting duty, the informant along with his team recovered ND&PS contraband of 28 packets of Heroin weighing total 165 gms from the possession of the present accused/petitioners. Hence, the case upon receipt of the FIR, the Officer-in-Charge of Guwahati GRPS Police Station registered the same vide Guwahati GRPS Case No. 78/2026 under Section 21(c)/29 of the ND&PS Act.

4. The petitioners were arrested on 18.04.2026 by the police of Guwahati GRPS Police Station in connection with Guwahati GRPS Case No. 78/2026 under Section 21(c)/29 of the ND&PS Act and accordingly was produced before the learned CJM Kamrup(M) on dated 19.04.2026 and thereafter the petitioners were remanded to judicial custody and since then they are languishing in jail hajot.

5. The petitioner beg to state that accused above named were detained by the police personal in connection with this instant case on 18.04.2026 around 8:15 AM in the morning and as per seizure list of this instant case vide MR No. 71/2026 which is alleged to be seized from the possession of the Accused No. 2 the date and time of seizure is reflected as 18.04.2026 at 11:30 AM and as per seizure list of this instant case vide MR No. 72/2026 which is alleged to be seized from the possession of the Accused No. 1, the date and time of seizure is reflected as 18.04.2026 at 12:20 PM, but the accused persons were produced before the Learned Magistrate at least after 01:30 PM, on 19.04.2026 as the medical record of the accused persons reflects the date and time as on 19.04.2026 at 12:23 PM which is done before the production of the accused persons.

6. Upon perusal of the record, I find merit in the submissions made by the learned counsel for the

petitioners.

7. Since the petitioners were effectively detained at 08:40 am on 18.04.2026 at Guwahati Railway Station, as is discernable from the FIR and forwarding report, they ought to have been produced before the nearest Magistrate by 08:40 am on 19.04.2026. Even allowing for travel time, they should have been brought before the Duty Magistrate by 7:10 am on 19.04.2026 at the latest, in the event of a failure to produce them during Court hours on 18.04.2026.

8. Although the time of arrest is shown as 09:00 pm on 18.04.2026 in the Arrest Memo, they were under effective detention from 08:40 am on that day.

9. In the case of ***Directorate of Enforcement Vs Subhash Sharma*** reported in ***AIR Online (2025) Supreme Court 355***, the Apex Court held that the arrest gets vitiated on completion of 24 hours in custody without being produced before the nesarest Magistrate. The Court further held that once a Court while dealing with the bail application, finds that the fundamental rights of the accused under Article 21 & 22 of the Constitution of India have been violated while arresting the accused or after arresting him, it is the duty of the Court dealing with the bail application to release the accused on bail. The reason is that the arrests in such cases stand vitiated.

10. This Court therefore is of the opinion that, the arrest and remand of the petitioners were in violation of the rights guaranteed to the petitioners under the provisions of Article 22 of the Constitution of India.

11. In the aforesaid circumstances, this Court is of the view that strict conditions of releasing the petitioner on bail are required to be imposed to ensure their participation in the trial and also to ensure that they appears before the Learned Trial Court as and when and if the petitioners are put up for trial. This court therefore directs that the petitioners be released on bail on furnishing a bond of Rs.

1,00,000/- (rupees one lakh only) with two suitable sureties of the like amount, at least one of who shall be a government servant serving either with the Government of Assam or with the Central Government and at least one who should have immovable property, to the satisfaction of the learned Addtional Sessions Judge No. 2, Kamrup(M)/ Special Judge, ND&PS, Kamrup(M) under the following conditions:

i) The petitioners shall not leave the territorial jurisdiction of the trial court and/or the learned Additional Sessions Judge No.1, Kamrup(M) without prior written permission;

ii) The petitioners shall not hamper and tamper with the evidence of the case.

iii) The petitioners shall not directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade them from disclosing such facts to the Court or to any police officer.

iv) The petitioners shall surrender their passports, if any if not already surrendered), before the learned Additional Sessions Judge No. 2 Kamrup(M).

v) The petitioners shall not try to contact any of the witnesses by any mode including telephone, social media etc.

vi) The petitioners shall furnish the present residential address with proof to the learned Additional Sessions Judge No. 2, Kamrup(M) and shall not change the said residence without prior permission of the learned Additional Sessions Judge No. 2, Kamrup(M). The learned Additional Sessions Judge No. 2, Kamrup(M) shall be at liberty to have the same verified in such manner as may be deemed fit.

vii) The learned Additional Sessions Judge No. 2, Kamrup(M) shall be at liberty to impose such

other condition or conditions as may be deemed necessary to ensure the participation of the petitioner in the trial.

viii) The petitioners shall not engage in any illegal activity of similar nature in the future.

12. Accordingly, Bail Application is allowed and disposed of.

JUDGE

Comparing Assistant