

GAHC010200932026



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

Case No. : Bail Appln./2745/2026

ELIAS AHMED ALIAS ILIAS AHMED
S/O HABIJUL, R/O VILL LENGRI BURI, PS MOIRABARI, DIST MORIGAON,
ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PP, ASSAM

Advocate for the Petitioner : MR. A R BHUYAN, MR N Z CHOUDHURY, MR S
ABDULLAH, MR J FIRDAUS

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MR. JUSTICE PRANJAL DAS

ORDER

Date : 30.09.2026

Heard Mr. A.R. Bhuyan, learned Senior counsel assisted by Mr. J. Firdaus, learned counsel for the petitioner. Also heard Mr. M.P. Goswami, learned Additional Public Prosecutor for the State.

2. This subsequent application has been filed under section 483 of the Bharatiya Nagarik Suraskha Sanhita, 2023, the petitioner, namely, **Elias Ahmed @ Ilias Ahmed**, is seeking regular bail in connection with Nagaon PS Case No. 470/2026 under section 21(c)/25 and 29 of the NDPS Act.
3. The petitioner along with two other accused persons were arrested on 18.06.2026.
4. The case arose out of an FIR dated 18.06.2026 with the allegation that on the same day in the morning, the informant received source information that a vehicle bearing registration No. AS01DB8800 was travelling from Silchar towards Guwahati to deliver and sell large quantity of NDPS contraband in Nagaon. Accordingly, GDE No. 08 of Nagaon PS was made on the same date and a police team proceeded to conduct a Naka checking at the Kathiathali-Borghat bypass Road.
5. During the checking, the target vehicle of which information was received was noticed coming and it was signalled to stop, but the driver attempted to flee. It is further alleged that, however, the vehicle was chased and later apprehended along with 3 persons and upon search, suspected heroin weighing about 750.42 grams, excluding soap boxes was found and seized along with some electronic components like mobile phones, etc. The search and seizure was conducted in the presence of 2 purportedly independent witnesses whose names are mentioned in the FIR.
6. This is a subsequent bail petition as an earlier bail petition was rejected on 26/08/2026 in BA 1906 of 2026.
7. Mr. Bhuyan, learned Senior counsel has submitted that a new ground has

been taken in the subsequent application which could not be taken in the earlier bail application, in as much as there is an infraction of the provisions of Article 22(2) of the Constitution of India, as the accused after his arrest on 18/06/2026 in the afternoon was produced before the learned Remand Magistrate beyond the period of 24 hours. It is submitted that in terms of the law laid down by the Hon'ble Apex Court in ***Directorate of Enforcement vs. Subhash Sharma***, reported in ***2025 SCC OnLine SC 240***, such a fact vitiates the arrest and therefore, petitioner may be granted bail.

8. In support of his contention, he has drawn attention to order dated 9/9/2026 passed by coordinate Bench in BA 2018 of 2026, pertaining to a co-accused of this very case, and who was also supposed to have been arrested at the same time and forwarded to the learned Magistrate by the same forwarding.

9. I perused the said decision. The coordinate Bench noted that the petitioner was detained and arrested at 1 PM on 18/6/2026 and produced before the learned Remand Magistrate on 19/6/2026 at 2:55 PM.

10. Referring to **Subhash Sharma**(supra), the coordinate Bench accepted the contention of the petitioner side, holding that there was violation of Article 22(2) of the Constitution on India and as such, the petitioner was granted bail with conditions.

11. The updated case diary has been received.

12. Mr. Goswami, learned Additional Public Prosecutor very fairly submits that the period of 24 hours was exceeded by approximately an hour. He further points out the relevant noting in the case diary about the police leaving for the court at 2:20 PM. The aforesaid fair submission of the learned Additional Public

Prosecutor, is much appreciated by this Court. Needless to say that the representative of public prosecution, apart from being an officer of the court, discharge public duties.

13. In the given facts and circumstances, I am of the considered opinion that the aspect of parity would apply to the present petitioner and the arrest had been become vitiated, owing to violation of Article 22(2) of the Constitution of India, requiring the accused petitioner to be granted bail at this stage. Therefore, the subsequent bail petition has to be accepted.

14. Accordingly, the accused-petitioner, named above, shall be released on bail in connection with Nagaon PS Case No. 470/2026 under section 21(c)/25 and 29 of the NDPS Act., on furnishing bail bond of **Rs.1,00,000/-** with one suitable surety of the like amount to the satisfaction of learned SDJM, Nagaon.

15. The direction for bail is further subject to the conditions:

(a) That the accused shall fully cooperate with the investigation and make himself available as and when called for by the Investigating Officer (I.O.);

(b) That the accused 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 police; and

(c) That the accused shall not commit any illegal activities or offenses, including any offense under the NDPS Act.

16. Violation or breach of any condition(s) shall entail cancellation of bail.

17. With the above observations, this bail petition stands **allowed** and

disposed of accordingly.

18. Send back the case diary.

JUDGE

Comparing Assistant