GAHC020002482026 2026:GAU-NL:370-DB

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

Case No. : W.P.(Crl.)/7/2026

SMTI KINOLI ACHUMI
W/O KHEKIVI CHISHI, SUNITO VILLAGE, NIULAND DISTRICT,
NAGALAND

VERSUS

THE STATE OF NAGALAND AND 4 ORS
REPRESENTED BY THE CHIEF SECRETARY TO THE GOVT. OF
NAGALAND, KOHIMA, NAGALAND.

2:THE SPECIAL SECRETARY
NAGALAND
KOHIMA

3:THE COMMISSIONER OF POLICE AND DISTRICT MAGISTRATE
DIMAPUR
NAGALAND.

4:THE SUPERINTENDENT OF JAIL
CENTRAL JAIL
DIMAPUR
NAGALAND

5:THE UNION OF INDIA
REPRESENTED BY THE DEPUTY SECRETARY
INTERNAL SECURITY - II DIVISION
MINISTRY OF HOME AFFAIRS
SECOND FLOOR
HALL NO. 23
MAJOR DHYAN CHAND STADIUM
INDIA GATE

NEW DELHI - 11000

Advocate for the Petitioner : ZAKATO CHISHI, MUGHAKA

Advocate for the Respondent : ,

BEFORE
HON'BLE MR. JUSTICE NELSON SAILO
HON'BLE MR. JUSTICE PRANJAL DAS

ORDER

Date : 17-06-2026
(Pranjal Das,J)

Heard Mr. Zakato Chishi, learned counsel for the petitioner. Also heard Mr. E. Thiba Phom, learned Public Prosecutor for the State.

2. The petitioner, Kinoli Achumi**,** who is stated to be the wife of the detenue, **Khekivi Chishi,** has invoked the writ jurisdiction of this Court under Article 226 of the Constitution of India to assail the detention order dated 22-01-2026, passed by the Commissioner of Police, Dimapur, subjecting the petitioner's husband to preventive detention in exercise of powers under section 3 (3) of the National Security Act, 1980 (hereinafter the NSA).

3. It is stated by the petitioner that a suo moto FIR dated 17-12-2025 was filed which was registered into Dimapur West PS case No. 122/2025 under sections 3(5)/140(3)/127(8)/308(2)/61(1) of BNS r/w section 1(A)/27(2) of the Arms Act, 1959 r/w section 7/8 of NSR. The corresponding GR number was GR No. 712/2025.

4. It is stated that on 29-12-2025, the detenue was arrested by the police in connection with this case, and he had applied for bail on 20-01-2026, which was fixed for hearing on 23-01-2026. But, before his bail

application could be heard, the aforesaid detention order dated 22-01-2026 was passed by the detaining authority.

5. In the police case which was registered, the allegation in the FIR was that on 15-12-2025 at around 11.30 pm, some unknown miscreants entered the residence of Imlimeren Imchen of Dimapur, and abducted him and his four friends. It was alleged that during the incident, gunshots were also heard in the area and later, empty cases were found. Subsequently, the victims were released but there was also allegation of demand of Rs. 50,00,000/- (Rupees fifty lakhs) for the same.

6. The detaining authority stated that the activities of the detenue was highly prejudicial to the security of the State of Nagaland and maintenance of public order and that it was also detrimental to the economic development of the state.

7. The grounds of detention were furnished to the detenue on 22-01-2026, and he submitted a representation dated 05-02-2026, before the State Government as well as Central Government but, both these representations were rejected on 12-02-2026 by the State Government and on 19-02-2026 by the Central Government. In the meantime, the State Government through the Chief Secretary approved the preventive detention vide order dated 02-02-2026. The State Government through the Chief Secretary also confirmed the detention order vide order dated 14-04-2026, and in the said confirmation order, it is stated that the matter was referred to the NSA Advisory Board of the Nagaland Government under section 9 of the NSA, and the Advisory Board in its report dated 09-03-2026 opined that there was sufficient cause for detention of the detenue under the NSA.

8. The petitioner filed an additional affidavit.

9. On behalf of the respondent nos. 1, 2, 3 and 4, an affidavit-in-opposition was filed stating that the activities of the detenue, including the activity of kidnapping for ransom was causing concern to the general public, and it was a threat to public security, adversely affecting the economic development. It was stated that on the grounds of security of the State and maintenance of public order, the detenue was required to be preventively detained under the NSA.

10. It was stated that the detention order dated 22-01-2026 was approved within 12 days by the State Government as required under section 3(4) of the NSA. It was stated in the affidavit that the detaining authority was aware that the detenue was in judicial custody, and that, there were adequate materials for the subjective satisfaction regarding the detention of the petitioner's husband. It is stated that the reference to the Advisory Board was also within time, being done on 06-02-2026.

11. The petitioner submitted an affidavit-in-reply. The learned counsel for the petitioner contended that the State Government violated section 3 (5) of the NSA, by not sending the fact of the detention to the Central Government within 7 days as required by the said provision. Another contention of the learned counsel is that the grounds of detention were furnished to the detenue in English language, and that he was literate only till 5th standard and he was unfamiliar with English language.

12. It is further submitted that the contention that the grounds of detention were explained to the detenue in Nagamese language will not suffice in terms of the settled laws. Another submission of the learned counsel for the petitioner is that the respondent No. 3, who was the

detaining authority did not file the affidavit, as is required in law.

In support of his contentions, the learned counsel for the petitioner cites the following decisions:-

(i) Mortuza Hussain Choudhary Vs. State of Nagaland and Ors, 2025 SCC OnLine SC 502;

(ii) Ananta Gogoi Vs Union of India and Ors, (2009) 4 GLR 11;

(iii) Adam Ali Vs. Union of India and Ors, (2021) 5 GLR 20;

(iv) Herot Chang Vs. State of Nagaland and Ors, 2022 SCC OnLine Gau 2209;

(v) Shri Lallubhai Jogibhai Patel Vs. Union of India and Ors, (1981) 2 SCC 427."

13. On the other hand, the learned Government Advocate representing respondent Nos. 1, 2, 3 and 4 submitted that the fact of detention was intimated to the Central Government within a period of 7 days from the date of approval by the State Government on 02-02-2026. It is submitted that all the procedural safeguards of the NSA were complied with in the instant case. It is submitted that the detenue was explained the grounds of detention in Nagamese language which he understands.

14. It is also submitted by the learned Government Advocate that the affidavit filed by the respondents also represented the detaining authority and the deponent was authorized by the detaining authority as well to file the affidavit.

15. We have heard the learned counsels for the rival parties, perused the pleadings, the materials available, including the annexed documents. We have perused the relevant portions of the original record made available by the learned Government Advocate and also perused the

decisions cited at the Bar.

16. Before proceeding further, section 3 (4) and 3(5) of the NSA maybe reproduced herein:-

> *"(4) When any order is made under this section by an officer mentioned in sub-section (3), he shall forthwith report the fact to the State Government to which he is subordinate together with the grounds on which the order has been made and such other particulars as, in his opinion, have a bearing on the matter, and no such order shall remain in force for more than twelve days after the making thereof unless, in the meantime, it has been approved by the State Government:*
>
> *Provided that where under section 8 the grounds of detention are communicated by the officer making the order after five days but not later than ten days from the date of detention, this sub-section shall apply subject to the modification that, for the words "twelve days", the words "fifteen days" shall be substituted.*
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> *(5) When any order is made or approved by the State Government under this section, the State Government shall, within seven days, report the fact to the Central Government together with the grounds on which the order has been made and such other particulars as, in the opinion of the State Government, have a bearing on the necessity for the order."*

17. Thus, it is clear from the aforesaid provision that when the detention order is approved by the State Government, then within 7 days thereafter, the fact of such detention has to be intimated to the Central Government, along with the grounds on which the order has been made.

18. In the instant case, though the learned Government Advocate has contended that the intimation was sent to the Central Government on time, but the affidavit-in-opposition filed by the respondent Nos. 1, 2, 3 and 4 is silent on that aspect. Therefore, it is not clear from the affidavit filed by the respondent's side as to whether the intimation to the Central Government complied with the stipulated time of 7 days from the approval of the detention by the State Government on 02-02-2026. This constitutes an infirmity in the detention procedure followed by the authorities.

19. On this point, para 17 of *Herot Chang (supra)* relied upon by the petitioner's counsel may be reproduced herein below:-

*"**17.** A perusal of the said Section would show that when an order is made or approved by the State Government under Section 3, the State Government shall within seven days report the fact to the Central Government together with the grounds on which the order has been made and such other particulars as in the opinion of the State Government having a bearing on the necessity for the order.*

The record shows that on 27.09.2021, the Order of Detention was passed. There is no whisper in the Affidavit-in-Opposition filed by Respondent Nos. 1, 2 and 4 as to when the said Order of Detention was communicated to the Central Government along with the grounds on which the Order has been made and such other particulars as in the opinion of the State Government have a bearing on the necessity for the Order. The Affidavit-in-Opposition, more particularly in paragraph no. 18 shows that only the Approval Order of detention dated 06.10.2021 along with relevant documents were forwarded to the Central Government on 06.10.2021. In absence of any materials placed before this Court, it appears that the Detention Order dated 27.09.2021 was not communicated to the Central Government within the period of seven days as is required under Section 3(5) of The Act. Accordingly, the said Detention Order on the face of it, violates the mandate of Section 3(5) of The Act."

20. Thus, in the aforesaid decision also, the Court found that there were no clear materials to indicate that the detention order was communicated to the Central Government within the stipulated period of 7 days, and the same was held to be violative of Section 3 (5) of the NSA.

21. Admittedly, the grounds of detention were in English, but it is submitted by the learned Government Advocate that the same were explained in Nagamese language.

22. However, we find that the legal position on this point is rather strict, as has been held by the Hon'ble Supreme Court in various decisions. Para 20 of the decision of the Hon'ble Apex Court in *Lallubhai Jogibhai Patel* (supra) may be reproduced herein below:-

*"**20.** It is an admitted position that the detenu does not know English. The grounds of detention, which were served on the detenu, have been drawn up in English. It is true that Shri C. L. Antali, Police Inspector, who served the grounds of detention on the detenu, has filed an affidavit stating that he had fully explained the grounds of detention in Gujarati to the detenu. But, that is not a sufficient compliance with the mandate of Article 22(5) of the Constitution, which requires that the grounds of detention must be "communicated" to the detenu. "Communicate" is a strong word. It means that*

sufficient knowledge of the basic facts constituting the 'grounds' should be imparted effectively and fully to the detenu in writing in a language which he understands. The whole purpose of communicating the 'ground' to the detenu is to enable him to make a purposeful and effective representation. If the 'grounds' are only verbally explained to the detenu and nothing in writing is left with him, in a language which he understands, then that purpose is not served, and the constitutional mandate in Article 22(5) is infringed. If any authority is needed on this point, which is so obvious from Article 22(5), reference may be made to the decisions of this Court in Harikishan v. State of Maharashtra: and Haribandhu Dass. v. District Magistrate"

23. Thus, it is clear that merely explaining the grounds written in English to the detenue in Nagamese, which is purportedly understood by him, would not satisfy the mandate of Article 22 (5) of the Constitution, as has been held by the Hon'ble Apex Court. In the aforesaid decision, the Hon'ble Apex Court has referred to the Constitution Bench Judgment of *Harikisan Vs. State of Maharashtra*. The said decision is an authority on this point.

24. In the case of *Mortuza Hussain Choudhary* (supra), relied on by the petitioner's side, the Apex Court referred to the decision of *Harikisan Vs. State of Maharashtra*. The relevant para 11 may be reproduced herein below:-

*"**11.** We may now refer to the Constitution Bench judgment in Harikisan vs. State of Maharashtra in the context of proper communication of the grounds of detention to the detenu so as to protect his/her right under Article 22(5) of the Constitution of making an effective representation against such detention. In that case, the grounds of detention were in English and the authorities asserted that the same were explained to the detenu in Hindi, a language known to the detenu, and that it would amount to satisfactory compliance. This plea was, however, rejected. The observations of the Bench in this regard read as under:*

> *"In our opinion, this was not sufficient compliance in this case with the requirements of the Constitution, as laid down in clause (5) of Article 22. To a person, who is not conversant with the English language, service of the Order and the grounds of detention in English, with their oral translation or explanation by the police officer serving them does not fulfil the requirements of the law. As has been explained by this Court in the case of State of Bombay v. Atma Ram Sridhar Vaidya [1951 SCC 43 :*

(1951) SCR 167] clause (5) of Article 22 requires that the grounds of his detention should be made available to the detenue as soon as may be, and that the earliest opportunity of making a representation against the Order should also be afforded to him. In order that the detenue should have that opportunity, it is not sufficient that he has been physically delivered the means of knowledge with which to make his representation. In order that the detenue should be in a position effectively to make his representation against the Order, he should have knowledge of the grounds of detention, which are in the nature of the charge against him setting out the kinds of prejudicial acts which the authorities attribute to him. Communication, in this context, must, therefore, mean imparting sufficient knowledge of all the grounds on which the Order of Detention is based. In this case the grounds are several, and are based on numerous speeches said to have been made by the appellant himself on different occasions and different dates.Naturally, therefore, any oral translation or explanation given by the police officer serving those on the detenue would not amount to communicating the grounds.Communication, in this context, must mean bringing home to the detenue effective knowledge of the facts and circumstances on which the Order of Detention is based."

The Constitution Bench went on to affirm that, if the detenu is not conversant with the English language, in order to satisfy the requirements of the Constitution, the detenu must be given the grounds in a language which he/she can understand and in a script which he/she can read, if he/she is a literate person."

(emphasis added)

25. Thus, it is abundantly clear that as the detenue was not conversant in English, therefore furnishing the grounds of detention in English would not satisfy the requirement of the Constitutional provision and the related case laws laid down by the Hon'ble Apex Court. This would be so, even if the grounds had been orally explained to him in Nagamese language, understood by him.

26. On the issue of requirement of affidavit to be filed by the detaining authority, as contended by the petitioner's side, we have perused the affidavit-in-opposition filed by the respondent Nos. 1, 2, 3 and 4 and find that it has been filed by the Home Commissioner of the Government of Nagaland, who was impleaded as Respondent No.2 in the writ petition. In

para 1 of the said affidavit, the defendant has stated that he is familiar with the facts and circumstances of the case and being duly authorized, competent to swear the affidavit on behalf of the State Respondents.

27. In the case of *Adam Ali* (supra), this Court held that the aforesaid issue has been dealt with by the Division bench of this Court in the case of *Phukan Daimary @ Fungjarang Vs. State of Assam and Ors* reported in *1998 (4) GLT 40*. This Court held in *Adam Ali* (supra), that an affidavit by any person other than the detaining authority, would not suffice to explain the subjective satisfaction which is required of the detaining authority. The relevant para 24 of *Adam Ali (supra)*, may be reproduced herein below:-

> *"**24.** We have also noticed an important factor in this case which is that the counter affidavit has not been filed by the authority which had passed the detention order, i.e. District Magistrate of Dhubri but the same has been filed by the Additional Deputy Commissioner. There is no explanation in the affidavit as to what prevented the District Magistrate from filing his own affidavit in the present case, since he was the authority on whose subjective satisfaction the petitioner was detained. This has been dealt with by a Division Bench of this Court in the case of Phukan Daimary @ Fungjarang vs. State of Assam & Ors., reported in 1998 (4) GLT 40 as in the said case, the authority who has detained a person, has not explained his/her subjective satisfaction before this Court. An affidavit by any other person save and except the person who has passed the detention order is not explanation of subjective satisfaction."*
>
> *(emphasis added)*

28. In the case of *Ananta Gogoi (supra)* also, this aspect was dealt with, an affidavit filed by an authority other than the detaining authority regarding the subjective satisfaction, was disapproved. The relevant para 19 may be reproduced herein below:-

> *"**19.** An ordinary reading of the above paragraphs of the affidavit would go to clearly depict that the deponent is not competent to speak about the subjective satisfaction of the detaining authority. It is accepted that the affidavit-in-opposition must come from the detaining authority. Surprisingly, there is not even a whisper as to why the detaining authority who issued the impugned detention order could not file the response. That apart, how can the office order dated 18.4.2008 issued by another officer, not being the detaining authority, be accepted as being authorisation letter to file the affidavit by the Additional*

Deputy Commissioner. There cannot be a better example of non-application of mind, mechanical approach and cavalier attitude shown by the state than the case at hand."

(emphasis added)

29. Thus, upon perusing the materials and considering the aforesaid case laws, it is clear that the preventive detention of the detenue suffers from the following infirmities: -

(i) There are no materials to indicate that the fact of detention and the grounds thereof were conveyed to the Central Government within the stipulated period of 7 days in terms of Section 3 (5) of the NSA.

(ii) The furnishing of the grounds of detention in English to the detenue, who was not conversant with the language would violate the mandate of Article 22 (5) of the Constitution of India, despite the fact that the grounds were orally explained to him in Nagamese language, which he purportedly understood.

(iii) The affidavit filed by the Home Commissioner on behalf of the other three respondents, including the detaining authority would not be sufficient, regarding the subjective satisfaction of the detaining authority, as because in terms of the aforesaid laws noticed above, the subjective satisfaction of the detaining authority can only be stated by an affidavit filed by the detaining authority, himself.

30. Thus, in view of the aforesaid infirmities in the detention order of the petitioner's husband, the continued detention of the detenue has become untenable, and the detention order is required to be quashed.

31. Consequently, we allow the writ petition and accordingly, the detention order 22-01-2026, the approval order of the State Government dated 02-02-2026, and the confirmation order of the State Government dated 14-04-2026, passed against the detenue namely, **Khekivi Chishi,**

are hereby **set aside** and quashed.

32. The detenue is to be released forthwith, unless his detention is required in connection with any other case.

33. With the above observations and direction, the writ petition stands disposed of.

JUDGE **JUDGE**

Comparing Assistant