GAHC020006682026 2026:GAU-NL:443

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

Case No. : Bail Appln./23/2026

MRS R CHAONAI
W/O MR. FRANCIS, PERMANENT RESIDENT OF LAKHAMAI VILLAGE, P.S. PHAIBUNG, SENAPATI DISTRICT, MANIPUR

VERSUS

STATE OF NAGALAND
THROUGH THE PUBLIC PROSECUTOR

Advocate for the Petitioner : PAKINRICHAPBO, NYUCHITHO L NYUTHE,THEPFUKEDO,PAAZUSOUL ROSU
Advocate for the Respondent : P.P, NAGALAND,

BEFORE
HON'BLE MRS. JUSTICE YARENJUNGLA LONGKUMER

JUDGMENT

Date : 27-08-2026

The instant application under section 483 of the BNSS, 2023 has been filed by the accused/petitioner Mrs. R. Chaonai seeking bail pending trial in connection with Special Case No.12/2026 in Kezocha PS Case No.001/2026 registered under section 18(b), NDPS Act, read with section 3(5) BNS, 2023.

Heard the learned counsel for the accused/petitioner Mr. Pakinrichapbo. Also heard Mr. V. Zhimomi, learned P.P for the State of Nagaland.

The case of the petitioner herein is that she was arrested on 12.05.2026 in connection with Kezocha PS Case No.001/2026 for alleged involvement in transporting 6 kgs of opium in a Mahindra Bolero bearing registration No.AS03X/1718 which was intercepted with the driver and the petitioner as occupants of the vehicle.

It is stated that the petitioner along with the driver one Mr. Mohan Chetry were arrested and the case was registered as Kezocha PS Case No.001/2026. The petitioner moved two bail applications before the Special Judge NDPS Kohima vide I.A.No.92/2026 and I.A. No.141/2026. However, the said bail applications were both rejected by orders dated 02.06.2026 and 04.08.2026 respectively.

The learned counsel for the petitioner submits that there is non compliance with section 48 of the BNSS in the instant case inasmuch as the name of the daughter of the accused is written in the format regarding notice of information of arrest under section 48 of the BNSS. However, the daughter was never informed either over the phone or through any means of communication as the daughter was not at the place of arrest. The learned counsel submits that the notice of information of arrest under section 48 BNSS also does not contain the signature or acknowledgment of the daughter of the accused and the record does not indicate that the ground of arrest has been provided to the relatives of the accused person.

The learned counsel for the petitioner has relied on the case of Vihaan Kumar vs State of Haryana and Another reported in 2025 SCC Online SC 269 wherein the Hon'ble Supreme Court has laid down the law that the requirement of informing the person arrested regarding the ground of arrest is a mandatory requirement as mandated under Article 22(1) of the Constitution of India and also that the grounds of arrest has to be made available to the friends, relatives and such other nominated persons in order to enable them to secure the release of the detained person on bail at the earliest. The Hon'ble Supreme Court also held that the purpose of communicating the grounds of arrest to the detenue is not merely a formality but to enable the detained person to know the reasons of his arrest and also to provide necessary opportunity to him through his relatives, friends or nominated persons to secure his release at the earliest possible opportunity for actualising the fundamental right to liberty and life as guaranteed under Article 21 of the Constitution of India. It was also held that requirement of communicating the grounds of arrest in writing is not only to the arrested person but also to the friends, relatives or such other person as may be disclosed or nominated by the arrested person, so as to make the mandate of Article 22(1) of the Constitution of India meaningful and effective failing which, such arrest may be rendered illegal.

Basing on the above submissions and the law rendered in Vihaan Kumar (supra), the learned counsel for the petitioner prays that the accused person/petitioner may be released on bail pending trial in the Special Case No.12/2026.

The learned P.P. Mr. V. Zhimomi is present for the State respondents and has produced the scanned copy of the Case Diary and also states that the case has already been charge-sheeted. He has also submitted on the basis of the Case Diary that the I.O has not found any materials/evidence against the present accused person and has prayed to the Court in the charge-sheet to discharge the present accused/person from the liability of the case. The I.O. has therefore filed charge-sheet only against the driver/accused Mohan Chetry. The learned P.P. has accordingly submitted that he has no objection in the instant petition provided that some conditions are laid down by this Court.

I have duly considered the submissions of the learned counsel for the parties and perused the pleadings as well as the scanned copy of the Case Diary.

Regarding the grounds taken by the petitioner that the grounds of arrest in writing is not provided to the relatives or friends of the accused person, it is necessary to peruse the grounds of arrest as well as the notice of information of arrest under section 48 of the BNSS. A perusal of the grounds of arrest shows that the accused has duly received the same and her signature has been appended acknowledging the grounds of arrest. Therefore, the mandate of section 47 of the BNSS has been found to be complied with. However, as far as the conditions of section 48 of the BNSS is concerned, it is found that the name of the daughter and her address has been entered as the relative of the accused person. However, the format does not contain any signature made by the daughter of the accused.

There is also nothing on record to show that she has been informed about the arrest or supplied with the grounds of arrest by any other means, either through post or email or watsapp. It is therefore evident that the grounds of arrest has not been provided in writing to the relatives, friends of the accused person as provided by section 48 of the BNSS.

Be that as it may, this Court has also seen that upon investigation the investigating agency has not found any material against the accused person in order to send her for trial. Having found no materials/evidence, the I.O in the Case Diary has recorded that it has been prayed before the Court to discharge Mrs. R. Chaonai/petitioner from the liability of the case. It is also the submission of the learned P.P that even in the charge-sheet, the I.O has prayed for discharge of the petitioner/accused.

In such view of the matter, the petition is allowed and the petitioner/accused is released on bail with the following conditions:-

1. The petitioner shall be released on bail on execution of bail bond of Rs.30,000/- with one surety of the like amount to the satisfaction of the Trial Court.
2. The petitioner shall provide necessary proof of address of her permanent residence before the Trial Court along with her contact number.

Bail application is disposed of.

JUDGE

Comparing Assistant