

GAHC020006232025

2025:GAU-NL:501



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

Case No. : Bail Appln./21/2025

SHRI KEKHRIENEIZO
S/O VISALHOU, R/O PERACHIEZIE COLONY, KOHIMA NAGALAND

VERSUS

STATE OF NAGALAND
KOHIMA NAGALAND

Advocate for the Petitioner : A. SOPHIE, PHENIANG LUSHING

Advocate for the Respondent : P.P, NAGALAND,

BEFORE
HON'BLE MRS. JUSTICE YARENJUNGLA LONGKUMER

ORDER

14.10.2025

Heard learned counsel for the petitioner, Mr. A. Sophie as well as Mr. E. Thiba Phom, learned Public Prosecutor for the State of Nagaland.

2. This application under Section 483 of the BNSS has been filed praying for release of the accused, Kevilezo Rupreo on bail.

3. The accused herein has been arrested on 29.08.2025 in connection with Special Case No. 22/2025 arising out of Narcotic PS Case No. 11/2025 under Section 22(b) and 29 of the NDPS Act, 1985.

4. It is the case of the petitioner that the accused was arrested on 29.08.2025 and is presently lodged at the District Jail, Kohima. The accused had filed Bail Application, being Interlocutory Application (Bail) No. 167/2025 before the learned Trial Court; however, the same was rejected by an Order dated 22.09.2025.

5. The grounds taken by the petitioner herein is that there is nothing on record to show that the grounds of arrest were communicated in writing to the relatives, friends or family of the accused and there is nothing to show that the same has been received and acknowledged by them and as such there is gross violation of Article 22(1) of the Constitution of India and Section 48 of the BNSS rendering the arrest of the accused as illegal. It is submitted by the learned counsel for the petitioner that in the format for information of grounds of arrest it can be seen that the name of the wife of the accused and her phone number has been reflected; however, the same is without any acknowledgement of receipt or signature of the wife. It is also stated that in the Remand Order dated 30.08.2025, passed by the learned Chief Judicial Magistrate, Kohima it has been clearly mentioned that the accused has been informed of the grounds of arrest and the family has only been intimated of the arrest. It has not been mentioned that the family has also been provided with the Grounds of Arrest. The learned counsel for the petitioner has relied on the case of ***Vihaan Kumar Versus State of Haryana and Others*** reported in

MANU/SC/0161/2025, wherein the Hon'ble Supreme Court has held that:-

"36. The purpose of inserting Section 50A of the Code of Criminal Procedure, making it obligatory on the person making arrest to inform about the arrest to the friends, relatives or persons nominated by the arrested person, is to ensure that they would be able to take immediate and prompt actions to secure the release of the arrested person as permissible under the law. The arrested person, because of his detention, may not have immediate and easy access to the legal process for securing his release, which would otherwise be available to the friends, relatives and such nominated persons by way of engaging lawyers, briefing them to secure release of the detained person on bail at the earliest. Therefore, the purpose of communicating the grounds of arrest to the detainee, and in addition to his relatives as mentioned above is not merely a formality but to enable the detained person to know the reasons for his arrest but also to provide the 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. Hence, the 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 meaningful and effective failing which, such arrest may be rendered illegal."

In view of the Judgment referred hereinabove, the learned counsel submits that the 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 arrested making the mandate of Article 22(1) of the Constitutional meaningful and effective. It is, therefore, prayed that the accused may be released on bail as the arrest is illegal and in violation of Section 48 of the BNSS.

6. Learned PP, Mr. E. Thiba Phom appearing on behalf for the State respondents has produced the Case Diary and has taken the Court to the entry made in the Case Diary wherein it is stated that the accused person was arrested under proper arrest memo, rights of the accused person was read out to him in a language understood by him and grounds of arrest

and right to bail under Section 47, BNSS was communicated to the accused person in writing and also read out and explained to him in the language he understands. Learned PP also states that it is brought out from the Case Diary that the intimation of arrest in compliance with Section 48, BNSS was given to the wife of the arrested accused person with her phone number. Therefore, the learned PP submits that the mandate of Section 48 BNSS has been complied with and, therefore, the present petition may be dismissed. The learned PP has also taken this Court to the Order of the learned Trial Court dated 22.09.2025 by which the first Bail Application of the accused was dismissed. At paragraph 6 of the Order dated 22.09.2025 the learned Trial Court observed that the contention that the grounds of arrest were not informed to the accused and the family member is not substantiated by records. *Prima facie*, the requirements of Section 48 of the BNSS appear to have been complied with. Learned PP, therefore, submits that the records/Case Diary shows that the wife of the accused person was intimated about the arrest and all other rights of the accused person was intimated to the wife of the accused arrested person.

7. This Court has given due consideration to the submission of the learned counsels and have perused the Case Diary which is produced by the learned PP. Upon going through the Case Diary it is seen that as far as the accused is concerned, the arrest memo, rights of arrested person, Grounds of Arrest, right to bail and all other requirements have been communicated to the accused person in writing and also read out and explained to him in the language he understands. However, as far as the wife of the accused is concerned, there is only a remark that intimation of

arrest was given to the wife under Section 48, BNSS. There is nothing to show from the records that the grounds of arrest was intimated in writing to the wife also which is a mandate of Article 22 of the Constitution. It is the requirement of law that the grounds of arrest have to be intimated to the relative/friends or such other persons as disclosed or nominated by the arrested person for the purpose of giving such information according to Section 48, BNSS. It is also a requirement of law that such grounds of arrest in writing have to be acknowledged and signed by the wife/relative and the same has to be on record. This Court is unable to find any such record of receipt of the grounds of arrest from the wife/relative of the arrested person. In view of the above observations and discussions, this Court is of the view that the requirement of Section 48, BNSS and the mandate of Article 22(1) of the Constitution has been violated in the present case. Accordingly, the petition is allowed.

8. The accused, Kevilezo Rupreo is hereby released on bail on the following terms and conditions:

(i) Execution of bail bond of Rs. 30,000/- with one surety of like amount, who shall be a permanent resident of Kohima to the satisfaction of the learned Trial Court.

(ii) The accused shall not hamper the investigation or tamper with the evidence in any manner and shall appear before the Investigating Officer as and when summoned.

(iii) The accused shall not leave the jurisdiction of the Trial Court without permission of the Court.

With the above directions this petition stands disposed.

JUDGE

Comparing Assistant