

GAHC010018232026



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

Case No. : Bail Appln./298/2026

MD JOYNUL HOQUE
S/O LATE AKADDAS ALIVILL- LAMARGAON, NAGARIA
P.S. PATHARKANDI, DIST. SRIBHUMI, ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE LEARNED PP, ASSAM

Advocate for the Petitioner : MR H R CHOUDHURY, Z HUSSAIN

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MRS. JUSTICE SHAMIMA JAHAN

ORDER

Date : 12-02-2026

Heard Mr. H.R. Choudhury, learned counsel for the petitioner as well as Mr. M.P. Goswami, learned APP.

2. By this application the petitioner has sought for bail in connection with Special NDPS Case No. 52/2025 arising out of Patharkandi P.S. 133/2025 registered under section 21(c)/25/29 of the NDPS Act, 1985 pending in the

Court of Special Judge, Sribhumi.

3. The FIR dated 25.05.2025 reveals that on a source information that one bike was coming towards a particular place carrying huge number of narcotics, the police person after making the GD entry and getting the authorization reached the said place and found a bike which was moving suspiciously in the said area and after intercepting the same, the petitioners were found, one was riding the vehicle and the other one was a pillion rider and upon search being made, contrabands were found from the back pack of one of the accused persons, namely Johorul Hoque. Joynul Hoque was riding the bike. The petitioner was arrested by the police person and after completion of the investigation submitted charge sheet on 24.09.2025.

4. Mr. H.R. Chouhdury, has raised two grounds for the release of the petitioner on bail. The first one is that the petitioner was not produced before the learned Court within the prescribed period of 24 hours and secondly, there is violation of section 47 and 48 of the BNSS, in as much as the grounds of arrest were not given in the language that the petitioner understands. Mr. Choudhury, submits that the petitioner was detained before the seizure made which was made at around 4:30 p.m. and was produced before the learned Court at 4:30 p.m. and therefore he submits that the petitioner was produced beyond the period of 24 hours. Regarding section 47 and 48 of the BNSS, 2023 the counsel for the petitioner submits that both the grounds of arrest given to the accused person and his relatives were in English and not in the language that they understand. To support his submission he has placed judgment of *Vihaan Kumar v State of Haryana* as well as *Prabir Purkayastha v State* delivered by the Hon'ble Supreme Court. The Hon'ble Apex Court had held in both the judgments that the grounds of arrest have to be furnished to the accused person and his

relatives in the language that they understands.

5. Mr. M.P. Goswami, learned APP for the State submits that the petitioner was arrested at 11:30 p.m. on 25.05.2025 and he was produced before the learned Court of Chief Judicial Magistrate at 4:30 p.m. on 26.05.2025 i.e. well within the prescribed period of 24 hours. He further submits that there is a difference between the language that the accused understands and the local language. He has placed the accused signing on the grounds of arrest in English language which shows that he understands English and further in the order of the learned trial court dated 26.05.2025, it was observed by the said Court that upon a query made the accused replied that he was served with the grounds of arrest and that section 47 and 48 was complied with. He further submits that at no point of time, the accused has raised the ground that although the grounds of arrest were served upon him he could not understand the contents thereof. Further, the learned APP submits that the said order of rejection by the learned Court was not annexed by the petitioner in the bail application which is mandatory as per the Gauhati High Court Rules.

6. Upon consideration of the submissions made by the learned counsels, it is found that the exact time of detention of the petitioner was nowhere provided in the documents, even if it is considered that he was detained before the seizure which will be again after 4 p.m. on 25.05.2025 and he was produced before the Court of Chief Judicial Magistrate after taking him from the police station at 4 p.m. and it is provided under section 57 of the Cr.P.C. that the time necessary for journey from the place of arrest to the Magistrate Court may be excluded from the prescribed period of 24 hours.

7. As such, it can safely be deduced that the petitioner was produced before the Court of Chief Judicial Magistrate within the prescribed period of 24

hours. Further, the grounds of arrest which were in details were given to the accused person and his relatives in English and since the accused and the relative has signed those grounds of arrest in English and having not raised any objection that he did not understand the English language before the Court of Chief Judicial Magistrate when the order dated 26.05.2025 was passed, the petitioner cannot turn around and say that he did not understand the language of English. As such, it can also be safely deduced that the petitioner understands the same.

8. It is not provided for that the grounds of arrest has to be given in local language or in the mother tongue of the accused person. It has to be given in a language that one understands which has been done in the instant case. Furthermore, the petitioner has not annexed the said order dated 26.05.2025 in the petition which is again a violation of the Gauhati High Court Rules.

9. In view of the same, this Court does not deem it fit to enlarge the petitioner on bail.

10. Petition is disposed of.

JUDGE

Comparing Assistant