GAHC010121772026

2026:GAU-AS:15528

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

Case No. : Bail Appln./1608/2026

SRI PROBIN MORAN ALIAS PRABIN MORAN ALIAS DIPU
S/O- LATE SUSEN MORAN R/O- NAGAPATHER P.O. INTHEM P.S. PENGAREE
DIST- TINSUKIA, ASSAM

VERSUS

THE STATE OF ASSAM AND ANR
REPRESENTED BY LEARNED PP .ASSAM

2:SMTI PROTIMA DAS
W/O- SRI MOINA DAS R/O- INTHEM NAGAPATHER P.O. - INTHEM P.S. PENGAREE DIST- TINSUKIA
ASSAM PIN-786174
MOBILE NO. 882218426

Advocate for the Petitioner : MR. N HASAN, MR SUBHRAJIT SAIKIA,MR. A HASAN

Advocate for the Respondent : PP, ASSAM, MR. S DAS(AMICUS CURIAE, R2)

BEFORE
HONOURABLE MR. JUSTICE ANJAN MONI KALITA

ORDER

Date : 13-10-2026

Heard Mr. N. Hassan, learned counsel appearing for the accused applicant. Also heard Mr. M. P. Goswami, learned Additional Public Prosecutor for the State

and Mr. S. Das, learned Amicus Curiae for respondent No. 2.

2. This is an application under Section 483 of BNSS, 2023 read with Section 187 thereof, praying for grant of default bail to the accused applicant in connection with POCSO Case No. 47/2026, registered under Section 65(1) of the BNS, 2023, read with Section 4 of the POCSO Act, 2012, pending before the Court of the learned Additional Sessions Judge-cum-Special Judge, POCSO, Tinsukia, corresponding to Pengaree P.S. Case No. 02/2026.

3. The gist of the prosecution case is that the informant lodged an FIR on 18.01.2026 before Pengaree Police Station alleging, *inter alia*, that on 13.01.2026, while she and her other family members had gone to the house of *Sri Prabin Moran*, who resides nearby, on the occasion of Uruka, her daughter was sleeping alone at their house as she was suffering from fever. Upon returning home at around midnight, the informant noticed that her daughter was sleeping. However, at around 10:00 a.m. the following morning, her daughter disclosed to her maternal aunt that *Sri Prabin Moran* had allegedly committed forceful sexual intercourse with her on the night of Uruka by taking advantage of the absence of other family members in the house.

4. On receipt of the FIR, the police registered the Pengaree P.S. Case No. 02/2026 under Section 6 of the POCSO Act. The accused applicant was arrested on 18.01.2026 and forwarded to the Court of the learned Special Judge, POCSO, Tinsukia, vide forwarding report dated 18.01.2026 and since then, he is behind bars.

5. Mr. Hassan, learned counsel for the accused applicant, submits that an application seeking default bail was preferred before the learned Additional

Sessions Judge-cum-Special Judge, POCSO, Tinsukia, on 20.04.2026. Vide order dated 20.04.2026, the learned Court below called for a report from the P.I. Court, Tinsukia, regarding the date on which the charge-sheet had been submitted by the Investigating Officer and also directed issuance of notice to the informant and the victim. On 23.04.2026, the P.I. Court, Tinsukia submitted a report before the Court of learned Additional Sessions Judge-cum-Special Judge, Tinsukia stating that the charge-sheet in the instant case had been submitted before the learned court below on 10.03.2026. In view of the said report, the learned Court below, vide order dated 23.04.2026, rejected the prayer for default bail on the ground that the charge-sheet had been submitted within the statutory period prescribed by law.

6. Mr. Hassan, learned counsel for the accused applicant submits that the accused applicant was arrested and remanded to judicial custody on 18.01.2026 and that the statutory period of 90 days had expired before the charge-sheet was placed before the learned Special Judge. It is contended that the accused applicant had, therefore, acquired an indefeasible right to default bail. He further submits that, although the report of the P.I. Court, Tinsukia indicates that the charge-sheet was submitted on 10.03.2026, the case record does not disclose any endorsement or initials of the learned Special Judge on the charge-sheet nor does any judicial order indicates that the charge-sheet was placed before the competent court within the prescribed period. The charge-sheet was placed before and perused by the learned Special Judge only on 07.05.2026.

7. Learned counsel for the accused applicant submits that mere submission of the charge-sheet before the office of the Magistrate or the court would not constitute sufficient compliance with Section 193(3) of the BNSS. It is

contended that the charge-sheet can be deemed to have been submitted before the competent Court only when the Magistrate or the Court competent to take cognizance of the offence puts its initials on the charge-sheet as well as in the register maintained for the purpose, bearing the date and seal of the Court. Learned counsel submits that the relevant date would be the date on which the charge-sheet is actually seen by the competent Court, as evidenced by the requisite initials or endorsement.

8. In support of his contention, learned counsel relies upon the decision of this Court in *Samsun Noor vs. State of Assam*, reported in 2022 (5) GLT 405 and submits that the charge-sheet would be deemed to have been submitted only when the competent Court puts its signature or initials on the charge-sheet or passes a judicial order evidencing its submission. Learned counsel submits that, in the instant case, no initials or signature of the learned Special Judge could be found on the charge-sheet nor was any judicial order passed by the learned Special Judge evidencing that the charge-sheet had been filed before the competent Court within the statutory period. Although the report of the P.I. Court, Tinsukia indicates that the charge-sheet was submitted on 10.03.2026, the same cannot be deemed to constitute sufficient compliance with Section 193(3) of the BNSS in the absence of the requisite material on the judicial record. On these grounds, learned counsel submits that the accused applicant has acquired an indefeasible right to default bail.

9. In support of his further submissions, learned counsel has also relied upon the decision of this Court in *Nobiul Islam v. State of Assam and Another*, decided on 09.03.2026 in Bail Application No. 89 of 2026.

10. Per contra, Mr. M. P. Goswami, learned Additional Public Prosecutor for the State, submits that the report of the P.I. Court, Tinsukia indicates that the charge-sheet was submitted before the learned Court below on 10.03.2026 itself, which falls within the statutory period of 90 days. He, therefore, contends that the accused applicant is not entitled to default bail. Learned Additional Public Prosecutor further submits that once the charge-sheet is submitted by the Investigating Officer within the prescribed statutory period, the date of such submission should be treated as the date of filing of the charge-sheet, notwithstanding the fact that no judicial order has been passed by the competent court in that regard.

11. In support of his submissions, learned Additional Public Prosecutor relies upon the decision of the Hon'ble Supreme Court in *Suresh Kumar Bhikamchand Jain vs. State of Maharashtra and Another*, reported in *(2013) 3 SCC 77*, wherein the Hon'ble Supreme Court held that filing of the charge-sheet within the prescribed period constitutes sufficient compliance with Section 167(2)(a)(ii) of the Code of Criminal Procedure, 1973. It was further held therein that whether cognizance of the offence has been taken or not is immaterial for the purpose of determining compliance with the said provision.

12. Learned Additional Public Prosecutor, therefore, submits that, since the charge-sheet in the instant case was submitted by the Investigating Officer on 10.03.2026, the absence of a judicial order or the fact that cognizance had not been taken at that stage would not affect the validity of such filing or entitle the accused applicant to default bail. Accordingly, he opposes the prayer for grant of default bail.

13. Mr. S. Das, learned Amicus Curiae appearing on behalf of respondent No. 2, on the other hand, submits that the charge-sheet shall be deemed to have been filed only when the concerned Magistrate or the Court competent to take cognizance of the offence has actually seen and perused the charge-sheet by putting his or her initials thereon, or when a judicial order to that effect has been passed by the concerned Magistrate or Court. He submits that, in the instant case, as no initials could be found on the charge-sheet and no judicial order to that effect had been passed by the learned Special Judge, POCSO, Tinsukia, the accused applicant is entitled to be granted default bail. In this connection, the learned Amicus Curiae has referred to the case of *Ravi Prakash Singh v. State of Bihar*, reported in *(2015) 8 SCC 340*, wherein the Hon'ble Supreme Court considered the endorsement of the Chief Judicial Magistrate, recorded as "seen with a date", as the date on which the charge-sheet was deemed to have been filed.

14. I have considered the rival submissions advanced by learned counsel appearing for the respective parties and have perused the Trial Court Record received in the instant case.

15. It is not disputed that the statutory period of 90 days for submission of the charge-sheet in respect of the alleged offence expired on 17.04.2026. Therefore, in the event of the charge-sheet not having been filed by the Investigating Officer before the learned Special Judge, POCSO, Tinsukia, on or before 17.04.2026, the accused applicant would be entitled to seek default bail, subject to fulfilment of the other requirements of law.

16. It is seen from the record that, on 20.04.2026, the accused applicant

filed a petition, being Petition No. 350/2026, before the learned Special Judge, POCSO, Tinsukia, praying for grant of default bail. On that date, the learned Special Judge called for a report from the Court Inspector, Tinsukia, regarding the date on which the charge-sheet had been submitted before the Court by the Investigating Officer, and fixed the matter for 23.04.2026. On 23.04.2026, the report appears to have been received by the learned Special Judge, POCSO, Tinsukia, wherein the P.I. Court reported that the charge-sheet in the case had already been submitted on 10.03.2026. Taking into account the said report indicating that the charge-sheet had been submitted on 10.03.2026, the learned Special Judge concluded that the charge-sheet had been filed within the statutory period of 90 days and, accordingly, rejected the prayer for default bail made by the accused applicant.

17. This Court has perused the order sheets of the learned Special Judge, POCSO, Tinsukia, but could not find any indication that the charge-sheet had been placed before the learned Special Judge on any date prior to 23.04.2026, although the order dated 23.04.2026 contains a reference to the perusal of the charge-sheet by the learned Special Judge, POCSO, Tinsukia. However, from the order dated 07.05.2026 passed by the learned Special Judge, POCSO, Tinsukia, it appears that the charge-sheet was perused by the learned Special Judge on 07.05.2026. This Court has also perused the charge-sheet but could not find any initials or other material evidencing that the charge-sheet had been placed before the learned Special Judge, POCSO, Tinsukia, prior to 07.05.2026. This Court could not find any initials or notings on the charge-sheet by the learned Special Judge, POCSO, Tinsukia. It is also not found that any judicial order has been passed by the learned Special Judge, POCSO, Tinsukia, indicating that the charge-sheet in the instant case had been filed before the expiry of the

statutory period of 90 days.

18. Taking into account the judgment of the coordinate Bench of this Court in *Samsun Noor* (supra) as well as the observations of the Hon'ble Supreme Court in *Ravi Prakash Singh* (supra), wherein it has been held that the charge-sheet would be deemed to have been laid on the date when it was placed before the Court, unless any other material reveals any contrary finding.

19. In *Samsun Noor* (supra), the coordinate Bench of this Court has held that submission of the charge-sheet before the office of the Magistrate/Court would not constitute sufficient compliance in terms of Section 173(2) of the Code of Criminal Procedure, 1973 read with Rules 38 and 69 of the Assam Police Manual, Part IV and it is only when the Magistrate or Court competent to take cognizance of the offence put initial in the charge-sheet as well as in the register maintained with date and seal of the Magistrate/Court, it would be that date on which the charge-sheed would be deemed to have been submitted before the Magistrate/Court.

20. In view of the foregoing discussion, as no material has been found to establish that the charge-sheet was filed before the expiry of the statutory period of 90 days, i.e., on or before 17.04.2026, this Court is of the considered opinion that the accused applicant is entitled to be released on default bail, as the charge-sheet is deemed to have been filed beyond the prescribed statutory period.

21. Accordingly, the accused applicant shall be released on default bail on furnishing a bail bond of Rs. 50,000/- (Rupees Fifty Thousand) with one surety

of like amount to the satisfaction of the learned Special Judge, POCSO, Tinsukia, subject to the following conditions:

(i) The accused applicant shall appear before the learned trial court as and when required;

(ii) The accused applicant 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 such person from disclosing such facts to the Investigating Officer or the learned Trial Court;

(iii) The accused applicant shall not try to get in touch with the victim or the family members of the victim for whatsoever reason during the trial of the case.

22. Before parting with the matter, this Court finds it appropriate to underline that once the charge-sheet is submitted before the P.I. Court, it is the duty of the officers concerned to place it before the concerned Court with utmost urgency and without any delay. It is also expected that the concerned Court, upon receipt of the charge-sheet, shall immediately put its signature or initials thereon, along with the date, so that the date of its submission before the Court can be readily ascertained from the record.

23. With the aforesaid observations and directions, the bail application stands disposed of.

JUDGE

Comparing Assistant