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2026:GAU-AS:16508

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

Case No. : Bail Appln./2664/2026

SAHAB SINGH
S/O LATE AVTAR SINGH, R/O BHAINI MATTUAN, P.S. TARN TARAN, DIST. TARN TARAN, PUNJAB, PRESENT ADDRESS PACHIM BARAGAON, GARCHUK 35, P.S. GARCHUK, DIST. KAMRUP M, ASSAM.

VERSUS

THE STATE OF ASSAM
REPRESENTED BY PP, ASSAM.

Advocate for the Petitioner : MR S BORTHAKUR, SR. ADV., MR. B HUSSAIN,MR S A BARBHUIYA,MR SAURADEEP DEY

Advocate for the Respondent : PP, ASSAM,

:: BEFORE ::

HON'BLE MR. JUSTICE PARTHIVJYOTI SAIKIA

O R D E R

11.11.2026

Heard Mr. S. Borthakur, the learned senior counsel appearing for the petitioner. Also heard Mr. Bhaskar Sharma, the learned Addl. Public Prosecutor, Assam.

2. This is an application under Section 483 of the BNSS, whereby the petitioner Sahab Singh has prayed for releasing him on bail. He is facing trial in NDPS Case

No.18/2026 pending in the court of learned Special Judge, NDPS, Karbi Anglong, Diphu, Assam.

3. Commercial quantity i.e. 14.14 kilograms of opium was recovered from a truck driven by Jatinder Singh and Mandeep Singh. Both of them were arrested. During investigation, it was found that the present petitioner Sahab Singh was to take delivery of the said contraband item. It is further alleged that the petitioner Sahab Singh was in a regular contact with Jatinder Singh and Mandeep Singh. Sahab Singh was arrested from Guwahati Airport while he was trying to fly away.

4. After conclusion of investigation, the *charge sheet* was filed against Sahab Singh also along with other accused.

5. Mr. Sarma has objected to this bail prayer.

6. In order to buttress his point, Mr. Sarma has relied upon a judgment of the Supreme Court that was delivered in *Collector of Customs v. Ahmadalieva Nodira*, *(2004) 3 SCC 549*. Paragraph 7 of the said judgment is quoted as under:

> "**7.** The limitations on granting of bail come in only when the question of granting bail arises on merits. Apart from the grant of opportunity to the Public Prosecutor, the other twin conditions which really have relevance so far as the present accused-respondent is concerned, are : the satisfaction of the court that there are reasonable grounds for believing that the accused is not guilty of the alleged offence and that he is not likely to commit any offence while on bail. The conditions are cumulative and not alternative. The satisfaction contemplated regarding the accused being not guilty has to be based on reasonable grounds. The expression "reasonable grounds" means something more than prima facie grounds. It contemplates substantial probable causes for believing that the accused is not guilty of the alleged offence. The reasonable belief contemplated in the provision requires existence of such facts and circumstances as are sufficient in themselves to justify satisfaction that the accused is not guilty of the alleged offence."

7. Mr. Sarma has also relied upon another judgment of the Supreme Court dated 2nd June, 2026 that was delivered in *State of Punjab v. Balraj Singh @ Billa*. In this judgment, the Supreme Court has held as under:

> "As rightly submitted by the appellant State, this Court, in Lalrintluanga Sailo (Supra) while

setting aside the bail granted by the High Court therein had held that consideration on the twin conditions under Section 37 of the NDPS Act is essential by the concerned Court. It was observed:

"5. There cannot be any doubt with respect to the position that in cases involving commercial quantity of narcotic drugs or psychotropic substances, while considering the application of bail, the court is bound to ensure the satisfaction of conditions under Section 37(1)(b)(ii) of the NDPS Act. The said provision reads thus:

"37. (1)(b)(ii) where the Public Prosecutor opposes the application, the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail." … … …

7. In the decision in Collector of Customs v. Ahmadalieva Nodira [Collector of Customs v. Ahmadalieva Nodira, (2004) 3 SCC 549 : 2004 SCC (Cri) 834] , the three-Judge Bench of this Court considered the provisions under Section 37(1)(b) as also Section 37(1)(b)(ii) of the NDPS Act, with regard to the expression "reasonable grounds" used therein. This Court held that it means something more than the prima facie grounds and that it contemplates substantial and probable causes for believing that the accused is not guilty of the alleged offence.

Furthermore, it was held that the reasonable belief contemplated in the provision would require existence of such facts and circumstances as are sufficient in themselves to justify satisfaction that the accused is not guilty of the alleged offence.

… … …

10. Thus, the provisions under Section 37(1)(b)(ii) of the NDPS Act and the decisions referred supra revealing the consistent view of this Court that while considering the application for bail made by an accused involved in an offence under the NDPS Act a liberal approach ignoring the mandate under Section 37 of the NDPS Act is impermissible. Recording a finding mandated under Section 37 of the NDPS Act, which is sine qua non for granting bail to an accused under the NDPS Act cannot be avoided while passing orders on such applications." (emphasis supplied)"

8. In this case, the petitioner has claimed that he has been in judicial custody for a

period of about one year. To that effect, Mr. Sarma has referred to paragraph 19 of *Balraj Singh @ Billa* (supra), which reads as under:

> "19. Moreover, the respondent has only undergone 1 year 7 months, and if found guilty a maximum sentence of twenty years may be imposed upon him. Therefore, it cannot be said that he has suffered incarceration for a long period, warranting interference in view of Article 21 of the Constitution."

9. I have given my anxious considerations to the submissions made by the learned counsels of both sides. I have gone through the evidences of the witnesses.

10. This Court is of the opinion that that the petitioner Sahab Singh no longer deserves to be detained in custody in this case. His bail application is allowed.

11. The petitioner Sahab Singh shall be released on bail of ₹100,000/- with two local sureties of like amount to the satisfaction of the learned Special Judge, Karbi Anglong, Diphu.

With the aforesaid direction, the bail application is disposed of.

JUDGE

Comparing Assistant