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2026:GAU-AS:15099

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

Case No. : Bail Appln./2773/2026

DIPANKAR SARKAR
S/O LATE SITENDRA SARKAR, RESIDENT OF VILLAGE JAKHLIBIL PATHAR, P.O. BARPETA ROAD, P.S. GOBARDHANA, PIN 781315, DISTRICT BAKSA, BTR, ASSAM

VERSUS

STATE OF ASSAM AND ANR
REPRESENTED BY THE PP, ASSAM

2:DEBOJIT BAISHNAB
SUB-INSPECTOR OF POLICE
BARPETA ROAD POLICE STATION
BARPETA ROAD
P.O. BARPETA ROAD
P.S. BARPETA ROAD
PIN 781315
DISTRICT BARPETA
ASSA

Advocate for the Petitioner : MR. S C BISWAS, R SAHA,MR S DAS,MR. S NATH

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

07.10.2026

Heard Mr. S.C. Biswas, learned counsel for the accused and Mr. P.S. Lahkar, learned Additional Public Prosecutor for the State respondent.

2. This application, under Section 483 of the BNSS, is preferred by the accused, namely, Dipankar Sarkar, who has been languishing in jail hazot since 20.04.2026, in connection with Barpeta Road P.S. Case No. 36/2026, corresponding to Special NDPS Case No. 38/2026, pending before the Court of learned Special Judge, Barpeta, under Section 22(c) of the NDPS Act, for grant of bail.

3. It is to be noted here that the aforementioned case has been registered on the basis of one FIR, lodged by SI Debajit Baishnab, of Barpeta Road Police Station, on 20.04.2026.

3.1. The essence of allegation in the FIR, dated 20.04.2026, is that the present accused is found in possession of 25 numbers of identical bottles, marked as Triprolidine Hydrochloride and codeine phosphate Phensedyl cough syrup on 19.04.2026, at about 08:30 pm, near BSNL office, Barpeta Road.

4. Mr. Biswas, learned counsel for the accused, submits that this is the second bail application preferred by the accused and that the earlier bail application was dismissed by this Court, vide order dated 12.08.2026, being Bail Application No. 2079/2026. Mr. Biswas further submits that this second bail application is preferred on the ground that two witnesses have been examined and that the evidences of the said two witnesses failed to show complicity of the

present accused with the offence alleged in the FIR and under such circumstances, he has contended to allow this petition.

5. Per-contra, Mr. Lahkar, learned Additional Public Prosecutor for the State respondent, has vehemently opposed the petition. He submits that the learned trial court had examined two witnesses and both of them have implicated the present accused with the offence alleged in the FIR. Mr. Lahkar further submits that the contraband substances recovered from the possession of the accused are of commercial quantity and as such, the accused has to satisfy the twin requirement of Section 37 of the NDPS Act and that the accused failed to satisfy the same and therefore, Mr. Lahkar has contended to dismiss this petition.

6. Having heard the submissions of learned counsel for both the parties, this Court has carefully gone through the petition as well as the documents placed on record and also perused the evidences of the two witnesses recorded by the learned trial court.

7. It is well settled that while dealing with bail application, the court is not entitled to appreciate the evidence, it has only to look into the prima-facie material.

8. Keeping the aforesaid proposition in mind and having gone through the evidences of the two witnesses recorded by the learned trial court, this Court finds that the two witnesses examined till date are seizure witnesses and they have stated about recovery of contraband substances from the possession of the present accused. And from a perusal of their evidences and from the materials on record, it cannot be said that no prima-facie case is made out against him.

9. Some of the material witnesses, including the informant, are yet to be

examined. Moreover, from the submission of learned counsel for the accused, this Court is unable to derive its satisfaction that the accused is not guilty of the offence and he will not commit any offence while on bail, as provided under Section 37 of the NDPS Act.

10. Therefore, this Court is of the view that this is not a fit case where the privilege of bail can be granted to the accused and accordingly, this petition stands **dismissed**.

JUDGE

Comparing Assistant