GAHC010207192026

2026:GAU-AS:16204

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

Case No. : Bail Appln./3027/2026

UTPAL ROY
SON OF LATE HARADHAN ROY RESIDENT OF VILLAGE GAMAIRBARI P S TELIAMURA DISTRICT SRIBHUMI ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PP, ASSAM

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

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MR. JUSTICE SANJEEV KUMAR SHARMA

ORDER

04.11.2026

Heard Mr. H.R. Choudhury, learned counsel for the petitioner. Also heard Mr. B. Sarma, learned Additional Public Prosecutor appears for the State of Assam.

2. This is an application under Section 483 of the BNSS, 2023 whereby, the

petitioner, Utpal Roy has prayed for releasing him on bail after he was arrested in connection with Special NDPS Case No. 11/2026 arising out of Bazaricherra P.S Case No. 115/2025 registered under Section 22(c)/25 of NDPS Act, 1985 pending at the Court of Sessions Judge, Sribhumi.

3. The case projected by the petitioner is that on 28.08.2025 one SI Pranab Mili, In-charge of Churaibari Outpost lodged an FIR alleging inter alia that on 28.08.2025 at about 4.20 p.m, during Naka Check Point of Churaibari Watch Post on N.H. 08, the informant and his team stopped on 06 wheeler TC Truck, open body truck, bearing registration No. T.R. 01 X 1858, for checking. During Checking he and his team found out a huge quantity of illegal band cough syrups inside the truck which were concealed with Battery, PVC pipe and Medicine etc. On through searching, he along with his team recovered 21 (twenty one) nos. plastic spray drums containing 700 (seven hundred) nos. of bottles of codeine Phosphate and Tripolidine Hydrochloride Eskuf cough Syrup. Each bottle contains 100ml quantity having batch No. PEKSL-048. In this connection he apprehended the driver of the vehicle Utpal Roy i.e, the petitioner and seized the contraband. The vehicle and other items i.e. the 700 bottles of cough syrup are seized as per seizure list. Accordingly, the FIR is registered as Bazaricherra P.S Case No. 115/2025 registered under Section 22(c)/25 of NDPS Act, 1985. The Seizure list is prepared vide MR No.95/2025. The apprehended

petitioner is forwarded to the Hon'ble Chief Judicial Magistrate, Sribhumi on 29.08.2025.

4. Subsequently the charge sheet of the case was filed under Section 22(c)/25 of NDPS Act against the petitioner and another accused shown as absconder.

5. It is the contention of the learned counsel for the petitioner that he is a mere driver of the truck, who was employed by the courier company which is the owner of the truck and it is his duty to transport whatever consignments are loaded on the truck.

6. It is submitted that consignments did not belong to the petitioner and the consignments were loaded at the Guwahati office of the transport company.

7. Learned counsel has referred to a decision of coordinate Bench of this Court dated 27.05.2022 in **Bail Application./965 of 2022 (Lorik Ram Vs The State of Assam)**, wherein, the Court had held that after thorough investigation the Investigating Officer noted that the seized cartons bore seal and pack of VRL logistic company and was loaded for transportation by the company truck driven by the accused petitioner for delivery and it was further noted that the narcotic suppliers had misused the vehicles of VRL Logistics to fulfill their malicious intent and therefore, granted bail to the accused in that case.

8. However, the facts of the present case are not entirely similar inasmuch as it transpires from the TCR that the recovery of the contraband was made from the truck being driven by the petitioner and the said contraband was found in hidden condition beneath battery, PVC pipe and medicine etcetera of which the petitioner cannot be presumed to have been ignorant.

9. An earlier bail application on behalf of the present petitioner being Bail Application No. 1066 of 2026 was rejected by this Court by order dated 20.07.2026. It is further submitted that a coordinate Bench of this Court has granted bail to a similarly situated petitioner in view of the fact that the petitioner has been behind bar for more than one year and not a single witness has been examined, which is a fact in the present case also.

10. However, on perusal of the said Order of the learned coordinate Bench dated 12.08.2026 in Bail Application No. 2020 of 2026, several other grounds were taken into account while passing the order for bail. In the said order reference has also been made to decisions of the Hon'ble Apex Court where it was held that incarceration for a period of one year or so cannot be considered as a long incarceration which would entitle the petitioner to bail (**State of Punjab vs. Balraj Singh alias Billa reported in 2026 INSC 618**).

11. Having regard to the above, this Court is not satisfied that the bar imposed by Section 37 of the NDPS Act has been overcome in the facts and

circumstances of the present case.

12. Accordingly, the prayer for bail stands rejected at this stage and the petition stands dismissed and disposed of.

JUDGE

Comparing Assistant