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2026:GAU-AS:16249

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

Case No. : Bail Appln./3108/2026

AJAY KUMAR GUPTA
S/O RAMESH GUPTA ALIAS RAMESH SAH, RESIDENT OF VILLAGE JAITPURA, P S AND P O NUAON, DISTRICT KAIMUR, BIHAR, PIN 802132.

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MS. T SOM, MS. A MAHANTA,MR. U HAZARIKA

Advocate for the Respondent : PP, ASSAM,

:: BEFORE ::

HON'BLE MR. JUSTICE PARTHIVJYOTI SAIKIA

O R D E R

05.11.2026

Heard Mr. R.P. Sarmah, the learned senior counsel assisted by Ms. T. Som, the learned counsel appearing for the petitioner. Also heard Mr. Bhaskar Sarma, the Addl.

Public Prosecutor, Assam.

2. This is an application under Section 483 of the BNSS, 2023 whereby the petitioner Ajay Kumar Gupta, who is facing trial in N.D.P.S. Case No.156/2025 pending in the court of the learned Addl. Sessions Judge No.5, Kamrup (M) at Guwahati has prayed for releasing him on bail.

3. Commercial quantity of morphine was allegedly recovered from the possession of the petitioner. His bail application was rejected by this Court on 22.04.2026 in Bail Application No.3894/2025.

4. Today, in this bail application, it has been pleaded that the provisions of law as contained in Section 36 of the BNSS, 2023 was not complied with in respect of the present petitioner.

5. Mr. Sarma has submitted that this plea is an issue of fact and can be determined on the basis of the evidence laid at the trial. In order to buttress his point, Mr. Sarma has relied upon a judgment of the Supreme Court that was delivered in *State of Punjab v. Baldev Singh*, *(1999) 6 SCC 172*. Paragraph 57(5) of the said judgment is quoted as under:

> "(*5*) That whether or not the safeguards provided in Section 50 have been duly observed would have to be determined by the court on the basis of the evidence led at the *trial*. Finding on that issue, one way or the other, would be relevant for recording an order of conviction or acquittal. Without giving an opportunity to the prosecution to establish, at the trial, that the provisions of Section 50 and, particularly, the safeguards provided therein were duly complied with, it would not be permissible to cut short a criminal trial."

6. I have considered the submissions made by the learned counsels of both sides.

7. I have decided to agree with Mr. Sarma that the points raised by the petitioner can be determined only with evidence at the time of trial. In Bail Application No.3894/2025, this Court had held that there are no reasonable grounds for believing that the petitioner had not committed any offence. This Court is of the opinion that at this stage, this Court cannot have any other view other than the view taken on the

earlier occasion.

8. Considering the aforesaid facts, the bail application is found to be devoid of merit and stands dismissed accordingly.

JUDGE

Comparing Assistant