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2026:GAU-AS:16460

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

Case No. : Bail Appln./3055/2026

MD HAKIM
S/O MD. KARIM, RESIDENT OF - HOUSE NO. 9, VILLAGE - BISWAMBHARPUR, . - SUTIHAR, P.S. - DARIYAPUR, IN THE DISTRICT - SARAN, BIHAR, PIN - 841222 PRESENTLY RESIDING AT - KACHARI BASTI, BIROLA, P.S. - DIPHU, DISTRICT - KARBI ANGLONG, ASSAM, PIN - 782460

VERSUS

THE STATE OF ASSAM
REPRESENTED BY PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. K H KHANDAKAR, MR. K M HASSAN,R PARBIN,ANIMA SAIKIA

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MR. JUSTICE ANJAN MONI KALITA

ORDER

Date : *10.11.2026*

Heard Mr. K. M. Hassan, learned counsel for the accused applicant. Also heard Mr. K. K. Parasar, learned Addl. Public Prosecutor for the State of Assam.

2. This is an application filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, praying for granting bail to the accused applicant in connection with NDPS Case No.11/2026, registered under Sections 21(c)/29 of the NDPS Act, arising out of Dillai P.S. Case No.61/2025, registered under Sections 21(c)/25/29 of the NDPS Act, read with Sections 61(2)/123 of the BNS, 2023.

3. An FIR was lodged on 21.11.2025 before the Officer-in-Charge of Dillai Police Station by one SI(P) Biman Chutia of the same Police Station alleging, *inter alia,* that information was received on 20.11.2025 at around 6:25 A.M. that while executing Naka checking on NH-29 at Dillai-Teniali, one Maruti Suzuki WagonR car bearing registration No. AS-09-K-7808, which was coming from Dimapur side and heading towards Manja side, was intercepted. Upon checking the car, some brown-coloured packets wrapped with duct tape and kept inside a grey-coloured school bag were recovered. Accordingly, a G.D. Entry was made at Dillai Police Station vide G.D. Entry No. 30 dated 20.11.2025. Thereafter, a team from Dillai Police Station arrived at the Naka-checking point at around 7:30 A.M., and the personal searches of the suspected driver and his accompanying persons/passengers were conducted. During the search of the vehicle, four nos. of polythene packets suspected to be morphine, weighing approximately 1.985 kg, were recovered. During interrogation at the spot, the

apprehended persons, including the accused applicant, disclosed that the packets of drugs had been received from a person in Dimapur and were supposed to be delivered at Muzaffarpur, Bihar. The apprehended accused persons were identified as Md. Hakim, Pritom Engleng and Rupsing Bongrung.

4. On receipt of the FIR, the police registered Dillai P.S. Case No.61/2025 under the aforementioned sections.

5. Learned counsel for the accused applicant submits that accused persons are behind bars since 20.11.2025 on their arrests. Learned counsel for the accused applicant submits that, although the accused applicant was apprehended at 6:25 A.M., he was produced before the Judicial Magistrate First Class, Diphu, only after 11:50 A.M. on 21.11.2025. Therefore, there is a clear violation of Article 22(2) of the Constitution of India, as well as Section 58 of the BNSS, 2023. In view of the aforesaid, he submits that the entire arrest of the accused applicant is vitiated in the instant case and the accused applicant should be granted bail on this ground alone. In this connection, learned counsel has referred to the case of ***Sujit Das & Ors. v. Union of India*****,** reported in ***2026 SCC OnLine SC 2358.***

6. Mr. K.K. Parasar, learned Addl. P.P., on the other hand, opposes the prayer of the bail, stating that the entire procedure of search and seizure was completed only at around 12:00 P.M. on 20.11.2025. Therefore, there was no delay in producing the accused applicant before the nearest Magistrate, i.e., Judicial Magistrate First Class, Diphu.

7. The Trial Court Records has been received and the same is perused.

8. On perusal of the TCR, it is seen that the accused applicant was apprehended at 6:35 A.M. on 21.11.2025 and he was produced before the JMFC, Diphu, only after 11:00 A.M. on the same day. Therefore, there is a clear violation of the 24-hour mandate prescribed under Article 22(2) of the Constitution of India, which guarantees a fundamental right to the accused applicant. It is also seen that there is a violation of Section 58 of BNSS, 2023, which is of statutory in nature. This Court has also taken into consideration the law laid down by the Hon'ble Supreme Court in the case of ***Sujit Das*** (supra). On the facts of the case, it is apparent that the accused applicant was not produced before the Court within 24 hours of his arrest.

9. Taking the aforesaid circumstances into consideration, this Court is of the considered opinion that the accused applicant should be granted bail at this stage on the ground of violation of Article 22(2) of the Constitution of India, as well as Section 58 of BNSS, 2023. Accordingly, it is directed that the accused applicant shall be released on bail upon furnishing a bail bond of Rs.30,000/- (Rupees Thirty Thousand only), with two sureties of like nature to the satisfaction of the learned District and Sessions-cum-Special Judge, Karbi angling, Diphu, subject to the following conditions:

(i) that the accused applicant shall appear before the learned Trial Court as and when required and shall cooperate with the conduct of the trial;

(ii) that 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 Court or to any police officer, nor shall he tamper with the evidence in any manner, whatsoever; and

(iii) that the accused applicant shall not commit any offence of similar nature or indulge in any criminal activity during the period of bail.

10. In view of the aforesaid directions, this bail application stands disposed of as allowed.

JUDGE

Comparing Assistant