GAHC010220632026

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

Case No. : Bail Appln./3174/2026

NAZIR KAZI ALIAS BOGA ALIAS SYED NAZIR KAZI
SON OF AFTAZ ALI RESIDENT OF VILLAGE - GOG P.S. BAIHATA CHARIALI,
PIN - 781381 DISTRICT - KAMRUP, ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE P.P., ASSAM

Advocate for the Petitioner : MR. A PAUL, MS. P DAS

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 07.10.2026

1. Heard Mr. A. Paul, the learned counsel for the petitioner. Also heard Mr. K. K. Das, the learned Additional Public Prosecutor for the State.

2. This application under Section 483 of BNSS has been filed by the petitioner, namely Nazir Kazi @ Boga @ Syed Nazir Kazi, who has been detained in bars since 15.11.2025, in connection with NDPS Case No. 13/2025, pending

before the learned Special Judge, Kamrup, Rangia, arising out of Baihata Chariali P.S. Case No. 61/2025, under Section 22(c) of the NDPS Act, 1985.

3. It is pertinent to mention here that this is for the second time the petitioner has approached this Court seeking bail in the aforesaid case. His earlier bail application was dismissed by this Court on 03.06.2026 in Bail Application No. 839/2026.

4. Mr. A. Paul, the learned counsel for the petitioner submits that the earlier bail application filed by the petitioner was rejected on the ground that when the said bail application was considered, the petitioner had undergone incarceration for less than seven months only and the same was not regarded as a long incarceration, however, he submits that after the rejection of the said order, more than four months have lapsed and not even a single prosecution witness has been examined by the prosecution side.

5. He further submits that in the instant case, the petitioner himself surrendered before the Trial Court on 11.11.2025, however, instead of considering his bail application, he was remanded to custody. He submits that while remanding the petitioner to custody, the mandate of Section 36, Section 47 and Section 48 of BNSS were not complied with. As such, he submits that his detention behind the bars is illegal. In support of his submission, the learned counsel for the petitioner has cited a ruling of the Apex Court in the case of "***Souvik Bhattacharya Vs. Enforcement Directorate, Kolkata Zonal Office-II"***, reported in "***(2024) 3 SCC 597***".

6. He submits that since no summons or warrant was issued against the

petitioner, he could not have been remanded to custody without complying with the mandate of Sections 37, 47, and 48 of BNSS.

7. On the other hand, Mr. K. K. Das, learned Additional Public Prosecutor submits that the plea raised by the petitioner in the instant bail application was already considered by this Court while rejecting this bail application on earlier occasion on 03.06.2026 and no new grounds for seeking bail has been shown by the petitioner. As such, he submits that the petitioner is not entitled to get bail.

8. He further submits that the offense involved in this case is possession of commercial quantity of contraband, as such, the embargo of Section 37 of the NDPS Act is applicable to this case. Hence, he prays for rejecting the prayer for bail.

9. I have considered the submissions made by the learned counsel for both sides and have gone through the materials available on record.

10. It appears that the contention that after surrender of the petitioner before the Trial Court on 11.11.2025, the mandate of Sections 36, 47 and 48 of BNSS were not complied with, were considered by this Court while rejecting the earlier bail application and it was held by this Court that since the petitioner was remanded to custody on the strength of a judicial order, hence, under the facts and circumstances of this case, the provisions contained under Sections 36, 47, 48 of BNSS are not applicable in this case.

11. The petitioner has shown no new ground to re-agitate the said facts before this Court.

12. As regards the contention of prolonged incarceration is concerned, this case involves offence concerning commercial quantity of contraband and the petitioner has been detained for less than one year, which, in the considered opinion of this Court, is not sufficient incarceration to override the embargo of Section 37 of the NDPS Act, 1985.

13. As such, this Court finds no merit in the instant bail application and accordingly, the prayer for bail is rejected and this bail application is dismissed.

JUDGE

Comparing Assistant