GAHC010235332026

2026:GAU-AS:16417

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

Case No. : Bail Appln./3460/2026

ASHIK PAHARIA
S/O-SANIA PAHARIA
R/O- HATIALI, LOWER, SESA LINE, P.S-TENGAKHAT, DISTDIBRUGARH, ASSAM.

VERSUS

THE STATE OF ASSAM
REPRESENTED BY PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR B P BORAH, MR J. B. CHOUDHURY,MR P J DUTTA

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 10.11.2026

Heard Mr. J.B. Choudhury, learned counsel for the accused and Mr. K.K. Das, learned Additional Public Prosecutor for the State respondent.

2. This application, under Section 483, BNSS is preferred by accused, namely, Ashik Paharia, who has been languishing in jail hazot in connection with

Sessions Case No. 8/2026, arising out of Tengakhat P.S. Case No. 54/2025, under Sections 118(2)/109(1) of the BNS, 2023, for grant of bail.

3. It is to be noted here that the aforementioned case has been registered on the basis of an FIR lodged by one Puran Paharia on 05.10.2026.

3.1. The essence of the allegation in the FIR dated 05.10.2026, is that his brother, Ashik Paharia had attacked his wife, Mrs. Susori Paharia with a big knife on 02.10.2025, at about 10:30 p.m. at night, and thereafter, she was taken to the Tea Garden Hospital and admitted there.

4. Mr. Choudhury, learned counsel for the accused submits that the accused was arrested on 05.10.2026, and since then, he has been languishing in jail for last 401 days, and though charge-sheet has been submitted and charges have been framed on 19.03.2026, till date, the prosecution side has failed to examine even a single witness. He also submits that the case has been listed today before the learned trial Court and today also, none of the witnesses turned up. He further submits that the accused is ready to face the trial and will appear before the learned trial Court on each and every date, and will abide by any condition imposed by this Court, and therefore, he has contended to allow the petition.

5. Per contra, Mr. Das, learned Additional Public Prosecutor submits that though several opportunities were afforded to the prosecution side to examine the witnesses, yet not a single witness turned up; but if the accused is enlarged on bail at this stage, the possibility of influencing the victim and informant, who happen to be the sister-in-law and brother of the accused, cannot but be ruled out. And under such circumstances, he has vehemently opposed the petition.

6. Having heard the submissions of learned counsel for both the parties, this

Court has carefully gone through the petition and the documents placed on record, and also perused the scanned copy of the record received from the learned trial Court.

7. It appears that the accused was charged under Sections 118(2)/109(1) of the BNS, 2023 on 19.03.2026, but till date, the prosecution side has failed to examine even a single witness. And today also, the case has been fixed before the learned trial Court and none of the witness turned up.

8. It is well settled in the case of **Union of India vs. K.A. Najeeb**, reported in **(2021) 3 SCC 713**, that when it is established that timely trial would not be possible and the accused has suffered incarceration for a significant period of time, the Court would ordinarily be obligated to enlarge them on bail.

9. In the instant case, the accused is behind the bar for last 401 days. And till date, no witnesses turned up, even though sufficient opportunities were afforded to the prosecution side. There is no immediate possibility of conclusion of the trial. And in view of the length of detention and further, considering the proposition laid down by Hon'ble Supreme Court in the case of **K.A. Najeeb** (supra), this Court is inclined to allow this petition.

10. It is provided that on furnishing a bond of Rs. 20,000/- with one surety of like amount to the satisfaction of the learned Additional Sessions Judge, Dibrugarh, the accused be enlarged on bail. The above privilege is, however, subject to the following conditions:

(i) The accused shall appear before the learned trial Court on each and every date.

(ii) The accused 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 him from disclosing such facts to the Court or to any police officer; and

(iii) The accused shall not leave the jurisdiction of the learned Additional Sessions Judge, Dibrugarh without prior permission.

11. The learned trial Court may also impose any other condition to ensure presence of the accused during the trial.

12. In terms of above, this bail application stands disposed of.

JUDGE

Comparing Assistant