GAHC010237312026

2026:GAU-AS:16644

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

Case No. : Bail Appln./3546/2026

AZAD SAIFUL
S/O ABUL KALAM AZAD
R/O- BAGARIGURI P.S.- BOKO
DIST.- KAMRUP
ASSAM.

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR
ASSAM

Advocate for : MR H R A CHOUDHURY
Advocate for : PP
ASSAM appearing for THE STATE OF ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 11.11.2026

Heard Mr. H.R.A. Choudhury, learned Senior Counsel, assisted by Mr. H. Ali, learned counsel for the accused. Also heard Mr. R.J. Baruah, learned Additional Public Prosecutor for the State respondent.

2. This application, under Section 483 of the BNSS, is preferred by accused, namely, Azad Saiful, who has been languishing in jail hazot, since 02.10.2026, in connection with Nagarbera P.S. Case No. 62/2026, under Sections 317(2)/317(4)/318(4)/61(2) of the BNS, 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 SI Champak Kalita, on 09.09.2026.

3.1. The essence of allegation in the FIR, dated 09.09.2026, is that acting on a tip off, regarding cyber fraud and operation of mule bank accounts, the informant and his staff had conducted a search at the residential premises of one Sahadat Alom Ahmed and during the search, a substantial quantity of banking and financial documents, passbooks, debit cards, credit cards and account opening documents, relating to different persons were recovered and seized. Thereafter, another search was conducted at the residential premises of one Rafiqul Islam and during the search of his premises, several articles like passbooks, pan cards, aadhaar card, debit cards, credit cards and account opening documents, mobile phones and vehicles were seized.

4. Mr. Choudhury, learned Senior Counsel for the accused submits that this is the second bail application preferred by the accused person, and the first one being Bail Appln. No. 3210/2026, was dismissed by this Court, vide order dated 14.10.2026, and that the accused person is behind the bar for last 40 days.

4.1. Mr. Choudhury also submits that this bail application is preferred on the ground of length of detention, and that except the offence Section 317(4) BNS, rest of the offences under Sections 317(2)/318(4)/61(2) of the BNS, are 60 days offences and given the period of detention, his further custodial detention may not be warranted in the interest of investigation. He also submits that the

accused is ready to abide by any condition imposed by this Court and therefore, he has contended to allow the petition.

5. Per contra, Mr. Baruah, learned Additional Public Prosecutor has opposed the petition. Mr. Baruah submits that having found materials against the present accused, this Court, vide order dated 14.10.2026, was pleased to dismiss earlier petition, being Bail Appln. No. 3210/2026. Mr. Baruah also submits that investigation is still going on, and some of the co-accused are absconding, and in view of the aforementioned facts and circumstances, Mr. Baruah, has contended to dismiss the petition.

6. Having heard the submissions of learned Advocates of both sides, this Court has carefully gone through the petition and the documents placed on record and also perused the case diary with the assistance of Mr. Baruah, learned Additional Public Prosecutor.

7. Indisputably, the first bail application, being Bail Appln. No. 3210/2026, was dismissed by this Court, vide order dated 14.10.2026, having found sufficient incriminating materials against the present accused person. And since rejection of earlier application, there appears to be no change of circumstances in favour of the accused persons, except however the length of detention. Of course length of detention is also a ground for filing a fresh bail application in view of the decision of Hon'ble Supreme Court in the case of ***Juvenile In Conflict With Law v. State of Rajasthan*** **(Special Leave to Appeal (Crl.)** ***No. 18636/2025;*** wherein it has been observed as under:-

> "**There is no embargo on filing a second bail application. No doubt, a second bail prayer may have to be considered on new grounds. But, in the context of bail, period of detention may, in circumstances,**

constitute a fresh ground. More so, in the context of a Juvenile where bail is the rule and denial of it is an exception."

8. It also appears that except the offence Section 317(4) BNS, rest of the offences under Sections 317(2)/318(4)/61(2) of the BNS, are 60 days offences. And given the factual scenario, there appears to be serious doubt about applicability of the Section 317(4) BNS, in this case. Mr. Choudhury, the learned counsel for the accused persons has rightly pointed this out.

9. It also appears from the case diary that the I.O. has already collected relevant materials against the present accused person. And as such the question of interfering with the investigation may not arise. Moreover, the I.O. got sufficient time for investigation of the case, qua the present accused person. The accused is behind the bar for last 40 days. And balancing the period of detention and personal liberty of the accused persons, against the nature and gravity of the offence and further considering the stage of investigation, this Court is of the view that a case for granting bail to the accused person is made out.

10. In the result, this Court is inclined to allow this petition. It is provided that on furnishing a bond of Rs.25,000/ (Rupees twenty five thousand) with one surety of like amount to the satisfaction of the learned Judicial Magistrate First Class, Boko, the accused person shall be enlarged on bail.

11. In terms of above this bail application stands disposed of. The case diary be returned.

JUDGE

Comparing Assistant