

GAHC010269592025



2026:GAU-AS:1092

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

Case No. : Bail Appln./3953/2025

KUNAL KAUSHIK KASHYAP
SO ANUPAM SAIKIA, RO VILL PARABATIA SAKAR, CHUBURI, PO TEZPUR
SADAR, PS TEZPUR, DIST SONITPUR, ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR D MEDHI, MR. J N SUWAL, S YESMIN, MR P SONOWAL

Advocate for the Respondent : PP, ASSAM,

BEFORE

HON'BLE MR. JUSTICE SANJEEV KUMAR SHARMA

Date on which judgment is reserved	: 22.01.2026
Date of pronouncement of judgment	: 30.01.2026
Whether the pronouncement is of the operative part of the judgment ?	: No.
Whether the full judgment has been pronounced?	: Yes

JUDGMENT & ORDER (CAV)

(Sanjeev Kumar Sharma, J)

Heard Mr. B K Mahajan, learned counsel for the petitioners. Also heard Mr. P Borthakur, learned Addl. Public Prosecutor for the State of Assam.

2. This application under Section 483 of BNSS, 2023 has been filed by the petitioner, namely, Kunal Kaushik Kashyap, praying for bail in connection with Basistha P.S Case No. 472/2025 registered under Sections 109/115(2)/117(2)/186(2) of BNS, 2023.

3. As per the allegation made in the FIR, on 11.09.2025, a quarrel broke out between the victim and his co-students. In the course of this quarrel, the present petitioners along with other co-accused persons assaulted the victim, as a result of which the victim became unconscious and subsequently died 20 days later in hospital.

4. Earlier bail applications on behalf of the petitioners were dismissed by this Court, the last one being Bail Application No. 3863 of 2025, which was disposed of by Order dated 02.12.2025. Considering the incriminating material available in the CD, at that point in time, the petitioners had spent 76 days in

detention.

5. In the meantime, the charge-sheet has been submitted, indicating thereby that the investigation is over.

6. It is seen from the charge sheet that initially the case was registered under Sections 109/115(2)/117(2)/189(2) of the BNS, 2023. However, as the victim succumbed to his injuries while undergoing treatment, subsequently, Section 103(2) BNS was added, and as per the postmortem report, the death was due the injuries sustained on the head, which were ante-mortem and caused by blunt force impact.

7. Mr. B K Mahajan, learned counsel for the petitioners, submitted that the victim died 20 days after the incident, and it ultimately may not turn out to be a case under Section 103(2) BNS and that the petitioners and the co-accused had no intention of causing the death of the victim. All of them are young boys and were co-students of the victim and the alleged assault took place on account of an altercation between the victim and some of the accused persons.

8. It is further submitted that since the investigation of the case is over, and by now the petitioners have spent more than four and a half months behind

bars, therefore, the continued detention warranted, especially considering their young age and the fact that they are students pursuing their studies. In this regard, learned counsel has referred to the decision of the Honorable Apex Court in ***Dinubhai, Boghabhai Solanki Vs. State of Gujarat & Others***, reported in **(2014) 4 SCC 626**, wherein, at paragraph 64, it has been held as follows:

“64. We have already noticed the submissions of the learned counsel for the parties on this application, seeking bail in the main judgment. The appellant-petitioner was arrested on 5-11-2013, when he appeared before CBI in response to the summons. Since then the appellant- petitioner has been in custody. The supplementary charge-sheet has been filed by CBI in the Court of ACJM, Ahmedabad in January 2014. After the charge-sheet being filed, obviously, the appellant-petitioner is no longer required for further investigation. Mr Rohatgi has rightly pointed out that there is no likelihood of the appellant-petitioner tampering with the evidence as the copies of all the sensitive statements have not been supplied to the appellant-petitioner.”

9. Mr. B. K. Mahajan, learned counsel for the petitioner further submitted that, in the present case also, the charge sheet against the present petitioners has already been submitted and the I.O. has stated that he would be filing a

supplementary charge-sheet as and when the absconding accused persons are apprehended, which has got nothing to do with the present petitioners. It is also submitted that strict conditions may be imposed by the Court and any violation of such conditions would automatically result in cancellation of the bail that may be granted by the court.

10. Learned Addl. Public Prosecutor Mr. P Borthakur has objected to the prayer for bail on the ground of availability of sufficient incriminating material against the petitioners.

11. Having regard to the submissions made above, including the fact that the petitioners are young students, and it does not appear that they acted with prior concert, and the victim died 20 days after the incident, and also having regard to the decision of the Apex Court in ***Dinubhai, Boghabhai Solanki (supra)***, which was a case of murder, being a case of premeditated murder, wherein the accused petitioners were granted bail after the filing of the charge sheet and completion of less than four months in custody, I am of the considered view that further detention of the petitioners is not warranted.

12. Accordingly, the prayer for bail is allowed.

13. The petitioner namely, Kunal Kaushik Kashyap shall be released on bail

of Rs. 1,00,000/- (Rupees One Lakh) only, with one surety of like amount to the satisfaction of the learned Elaka Magistrate in connection with the aforesaid case.

14. The aforementioned bail is granted on the following conditions that the petitioner shall not try to influence or intimidate the witnesses in any manner and shall regularly participate in the trial once the same commences. It is further provided that the petitioner shall report to the concerned Police Station once every month within the first week of the said month.

15. The bail petition stands allowed accordingly.

JUDGE

Comparing Assistant