GAHC030006032026

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

Case No. : Bail Appln./76/2026

Sh. Hassan Ali
S/o Abdul Sukkur, Alekargool Badarpur Sribhumi Dist, Cachar, Assam

VERSUS

The State of Mizoram
Aizawl

Advocate for the Petitioner : Mr Ashok Kumar Rokhum

Advocate for the Respondent : P.P./Addl.PP, Mizoram

BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA
ORDER

12.10.2026

Heard Mr. A.K. Rokhum, learned counsel for the petitioner. Also heard Mrs. Mary L. Khiangte, learned Addl. PP for the State respondent.

2. This is an application under Section 480 of the BNSS seeking regular bail to the accused petitioner, Sh. Hassan Ali, who was arrested on 02.01.2026 in connection with Saitual P.S Case No. 01/2026 under Section 22(c)/25 of the

ND&PS Act, on account of 1,01,000 tablets of Methamphetamine having been found packed in 10 bundles inside the bonnet of Eco Sports Car B/R No. AS-01-DH 4667, driven by the petitioner.

3. The petitioner's counsel submits that the petitioner was the sole occupant of the car when the 1,01,000 tablets of Methamphetamine, weighing 11.062 kgs and having a street value of approximately Rs. 1,43,80,600/-, were recovered from the car, inasmuch as, he was the driver of the car.

4. The petitioner's counsel submits that the arrest of the petitioner is in violation of Section 47 & 48 of the BNSS, inasmuch as, grounds of arrest has not been furnished in writing to the petitioner, which were in violation of Article 21 of the Constitution of India. In this regard, he has relied upon the decisions of the Supreme Court in ***Prabir Purkayastha Vs. State (NCT of Delhi),*** reported in ***2024 INSC 414*** and in the case of ***Vihaan Kumar Vs. State of Haryana & Anr.,*** reported in ***2025 INSC 162.***

5. The petitioner's counsel also submits that while the petitioner was arrested on 02.01.2026 at 12:30 a.m., he was not produced within 24 hours, in terms of Section 58 of the BNSS, though he was produced before the Magistrate on 03.01.2026. He accordingly submits that in view of violation of the mandatory provisions of law, the petitioner should be granted bail.

6. The learned Addl. PP on the other hand submits that the petitioner was produced before a Magistrate within 24 hours from the time of his arrest, as can be seen from the Arrest Memo and the order passed by the learned Court before whom the petitioner was produced. She also submits that Sections 47 &

48 of the BNSS has been complied with. Further, as the petitioner was the sole occupant of the car, being the driver from Sribhumi, Assam, who had come from Manipur to Aizawl, the petitioner was the only person who was in conscious possession of the recovered drugs. Accordingly, the provisions of law not having been violated, there was no grounds to release the petitioner on bail.

7. I have heard the learned counsels for the parties.

8. With regard to the petitioner's counsel submitting that the grounds of arrest had not been furnished, will have to go into the Order dated 17.04.2026 passed by the learned Trial Court in Bail Appln. No. 137/2026, which had dismissed the prayer of the petitioner for bail. Paragraph No. 6 of the said Order dated 17.04.2026 passed in Bail Appln. No. 137/2026 states as follows:-

> "*6. With regard to the contended violation of Section 47 and 48 of the Act, the grounds of arrest and arrest intimation is communicated in writing to the accused/petitioner and his brother, and both were translated in Assamese and the accused/petitioner countersigned the same. The arrest intimation being served to the brother of the accused/petitioner as contended by Ld. Addl. PP was done in witnessed of a reliable person, the VCP of Keifang Venghlun. Hence, the court is satisfied that substantial compliance was made by prosecution in this regard.*"

9. The grounds of arrest under Section 47 of the BNSS, which is part of the present petition shows that the petitioner has been informed of the grounds of arrest in the English and Assamese language. Similarly, the arrest intimation given to the brother under Section 48 of the BNSS has also been made in English and Assamese. The petitioner and his brother have also given their signatures in the two documents, one informing the petitioner the grounds of

his arrest and the informing the petitioner's brother that the petitioner had been arrested.

10. In the case of ***Prabir Purkayastha (supra)*** and ***Vihaan Kumar (supra),*** the Supreme Court held that the information of the grounds of arrest must be provided to the arrested person, in such a manner that sufficient knowledge of the basic facts constituting the grounds is imparted and communicated to the effected person effectively, in the language which he understands.

11. On perusal of the documents made under Sections 47 & 48 of the BNSS, I am of the view that the mandatory requirement under Article 22(1) of the Constitution of India has been duly followed. As such, grant of bail on the ground that Sections 47 & 48 of the BNSS have not been followed, is rejected. In any event, it would be profitable to the judgment of the Supreme Court in the case of ***State of Punjab Vs. Balraj Singh @ Billa in Special Leave Petition (Crl.) No. 896/2026,*** wherein it has been held that while considering an application for bail under Section 37(1)(b)(ii) of the NDPS Act, in an offence pertaining to commercial quantity, a liberal approach ignoring the mandate under Section 37 of the NDPS Act is impermissible. Recording a finding mandated under Section 37 of the NDPS Act, which is sine qua non for granting bail to an accused under the NDPS Act, cannot be avoided, while passing orders on such applications.

12. On considering the present case, I do not find that the conditions for grant of bail had been made out under Section 37 of the NDPS Act.

13. With regard to the second contention of the petitioner's counsel that the petitioner was not produced before the Magistrate within 24 hours, I do not find the same to be correct, inasmuch as, the petitioner was arrested on 02.01.2026 at 12:30 a.m. and he was produced before the Magistrate on 03.01.2026. Though there is no time recorded, as to when he was produced before the Magistrate on 03.01.2026, we have to keep in mind the fact that the time period taken for travel has to be excluded. In any event, when there is no proof that the 24 hour time period has been breached, I do not find any reason to come to any finding that the petitioner had not been produced before the Magistrate within 24 hours of his arrest.

14. In view of the reasons stated above, I do not find any grounds to allow the present petitioner to be released on bail.

15. Bail Application is accordingly dismissed.

JUDGE

Comparing Assistant