GAHC030006392026

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

Case No. : Bail Appln./82/2026

Sh. Ezra Lal Zung Kai
S/o Duh Cung Thang, Khawmawi, Tiau, Myanmar, presently in Central Jail, Aizawl

VERSUS

Union of India represented by the Sr. Intelligence Officer, Directorate of Revenue Intelligence
Aizawl

Advocate for the Petitioner : Ms. Rebecca Lalzawmpuii

Advocate for the Respondent : Mr. Johny L Tochhawng

B E F O R E

HON'BLE MR. JUSTICE RAJESH MAZUMDAR

ORDER

12.10.2026

This bail application was disposed of by the Order dated 17.09.2026.

It has come to notice that there is an inadvertant error in paragraph No. 10 of the order. Paragraph No. 10 is quoted below for ready reference:-

"*10. The learned counsel for the petitioner has placed reliance on the Order dated 20.04.2026 passed in Bail Application No. 15/2026 wherein this Court had noticed as follows:*

> "*10. Perused the petition as well as the case file and considered the submissions by learned counsels for both parties. It is seen that charge sheet has been filed and the case if fixed for hearing on charge to be conducted on 01.06.2026. The Court finds that the requirements under Sections 47 and 48 of the BNSS, 2023 have been duly complied with by the investigating agency. The grounds of arrest and arrest intimation to the family members of the accused/petitioner and his co-accused were communicated to in a language known and understood by them, and the contention that the arrest grounds were vague or mechanical is not supported by the record. The arrest intimation was duly communicated, and the fact that acknowledgment was made on the following day does not invalidate the arrest process.*
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> *11. The Court also finds that there is a strong prima facie case against the accused based on the recovery of a commercial quantity of heroin from concealed cavities in the vehicle in which he was driving/travelling. The FSL report confirms that the seized substance is heroin. The issue of conscious possession is a matter for trial and cannot be conclusively determined at the bail stage.*
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> *12. The Court observes that procedural objections regarding the place of search and shifting of the vehicle to the DRI office do not vitiate the investigation, as no prejudice has been shown by the accused so far. The Court is of the view that in light of the recovery of commercial quantity contraband, the statutory restrictions under Section 37 of the NDPS Act are clearly attracted. The Court finds reasonable grounds to believe that the accusations against the accused are prima facie true. Therefore, it is found that the accused has failed to satisfy the twin conditions for grant of bail under Section 37 of the NDPS Act. Accordingly, the bail application is rejected and disposed of."*

This paragraph should have read as:-

10. The learned counsel for the petitioner has placed reliance on the Order dated 20.04.2026 passed in Bail Application No. 15/2026 wherein this Court had noticed as follows:

> "*10. As may be noticed, the main projection made in the instant application is with regard to non-compliance of Sections 47 and 48 of the BNSS, Section 47 of the BNSS provides that the person arrested should be informed of the grounds of arrest and of the right to bail. A perusal of the grounds of arrest, dated 12.01.2026, prepared by the arresting authority, would go to show that the petitioner has been arrested in connection with the recovery of 11.118 kilograms of methamphetamine and that it has been alleged that he is involved with the transportation of the contraband substance and therefore, there was a violation of Section 8(c) of the ND&PS Act. The petitioner has also been informed that he may consult a lawyer or an advocate to assist him and that he may also seek appropriate remedy to prevent him from being kept in judicial custody or Excise custody. As a token of receipt of the grounds of arrest, the petitioner has duly subscribed his signature on the body of the grounds of arrest. Therefore, it appears that there is substantial compliance of Section 47 of the BNSS Act, 2023. In so far as the arrest intimation under Section 48 of the BNSS is concerned, it is seen that the intimation is addressed to the wife of the petitioner and that she has appended her signature as a token of receipt of the same. However, what can be seen from the arrest intimation is that there is no indication as to why the petitioner has been arrested. It merely states that the petitioner was arrested on 12.01.2026 at 7:30 PM from Khatla, Aizawl and he has been in custody since then.*
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> *11. Section 48 of the BNSS, 2023 may be abstracted for hereunder for ready perusal:*
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> > "*48. Obligation of person making arrest to inform about the arrest, etc., to relative or friend. (1) Every police officer or other person making any arrest under this Sanhita shall forthwith give the information regarding such arrest and place where the arrested person is being held to any of his relatives, friends or such other persons as may be disclosed or mentioned by the arrested person for the purpose of giving such information and also to the designated police officer in the district."*
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> *12. From the above abstract, it can be seen that the police officer making arrest is required to forthwith give the information regarding such arrest and the place where the arrested person has been kept to any of his relatives, friends, or such other persons as disclosed by the arrestee. The information regarding such arrest cannot plainly be an information that the person has been arrested without mentioning the reason for the arrest. In other words, the basic requirement would be to inform not only of the arrest but also as to why the arrest has been made. Therefore, from the arrest intimation given to the wife of the petitioner in the instant case, it cannot be said that the same meets the requirement of Section 48 of the BNSS, as it does not*

disclose as to why the petitioner was arrested."

Accordingly, the contents of paragraph No. 10 are hereby corrected. The substitution of the new paragraph 10 in place of the earlier paragraph No. 10 of the order would not affect the outcome of the bail petition. This order shall be read as a part of the Order dated 17.09.2026.

JUDGE

Comparing Assistant