GAHC030006722026

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

Case No. : Bail Appln./87/2026

Smt. Lalremtluangi
D/o Sh. R. Thanglura(L) R/o H/No.-70B, Seling, Lunglei Road,Aizawl-796161

VERSUS

The State of Mizoram
Aizawl

Advocate for the Petitioner : Mr. R. Vanlalhruaia

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

:::BEFORE:::

HON'BLE MRS. JUSTICE HELEN DAWNGLIANI

Date on which judgment is reserved : 06.10.2026

Date of pronouncement of judgment : 09.10.2026

Whether the pronouncement is of the Operative part of the judgment : NA

Whether the full judgment has been Pronounced : Yes

Order (CAV)

1. Heard Mr. R. Vanlalhruaia, learned counsel for the petitioner. Also heard Mrs. Linda L. Fambawl, learned Public Prosecutor for the State.

2. This is an application filed under Section 483 of the BNSS read with Section 37 of the NDPS Act, 1985, for the grant of bail to the accused in Excise Case No. 124 of 2026 under Section 21(c) of the NDPS Act, 1985.

3. The brief facts of the case are that in the early morning of 09.05.2026, information was received by the Central Anti-Drugs Squad of the Central YMA that a huge quantity of drugs, suspected to be codeine, would be arriving at the Post Office, Treasury Square, Aizawl. This information was subsequently transmitted to the Excise & Narcotics Department.

4. The personnel of the Excise & Narcotics Department proceeded to the Post Office at Treasury Square, Aizawl, where they found 14 unclaimed, suspected parcels addressed to M/s Tluangi Pharmacy, Seling, Aizawl. The Excise personnel remained at the Post Office waiting for the owner of the parcels to arrive. In the afternoon, one Shri Malsawma, a resident of Seling, arrived at the Post Office to collect the 14 parcels and was detained at the office of the Excise & Narcotics Department within the Treasury Square area. Subsequently, Smt. Lalremtluangi, wife of Shri Malsawma, arrived at the place of detention and

identified herself as the license holder and proprietor of M/s Tluangi Pharmacy.

5. The parcels were opened in the presence of independent witnesses, revealing 210 kilograms of codeine packed in 2,100 phials branded as "Kofftripp," with each parcel containing 150 phials. The contraband items were seized at 4:30 PM on 09.05.2026, and Smt. Lalremtluangi was arrested.

In connection with the aforesaid seizure, EX-N-124 of 2026 dated 10.05.2026 under Section 21(c) of the NDPS Act, 1985, was registered, and the case is under investigation.

6. Mr. R. Vanlalhruaia, the learned counsel for the petitioner has sought bail mainly on the ground of violation of Sections 47 and 48 of the BNSS. In this connection, the learned counsel submitted that in the case of the intimation of arrest under Section 47 of the BNSS, the signature of the accused was missing. In the case of intimation under Section 48 of the BNSS, the same was prepared by the arresting authority, but the intimation was incomplete, and the information contained therein was not in conformity with the mandates of the Hon’ble Apex Court. Therefore, the intimation of the arrest did not meaningfully communicate why the accused was arrested, the specific allegation, the nature of the contraband recovered, the quantity thereof, and the circumstances constituting the offence. The learned counsel submitted that non-compliance

with Sections 47 and 48 of the BNSS vitiates the arrest itself, and the provisions of Article 22(1) of the Constitution have been violated. It is also contended by the learned counsel that the accused/applicant is suffering from hypertriglyceridemia, for which she requires special treatment that cannot be provided in the Central Jail.

7. It is submitted by the learned counsel that bail application was earlier submitted before the learned Judge of the Special Court, ND & PS Act but the same was rejected. According to the learned counsel, even though the alleged seized article is of commercial quantity, the embargo under Section 37 of the NDPS Act does not deprive the accused of the right to be enlarged on bail as her arrest was violative of Article 22 (1) of the Constitution. In support of his submissions, the learned counsel has placed reliance on the following cases:

- i) *Vihaan Kumar vs. State of Haryana*, reported in (2025) 5 SCC 799
- ii) Order dated 20.04.2026 in Bail Appln. No. 15 of 2020 (*Lalchhuanliana vs. State of Mizoram*)
- iii) Order dated 22.05.2026 in Bail Appln. No. 29 of 2026 (*Joseph Lalrindika vs. State of Mizoram*)

8. On the other hand, Mrs. Linda L. Fambawl, learned Public Prosecutor, opposed the application and submitted that from the Case Diary, it is clear that

the facts involved in the instant case would show that no prejudice was caused to the accused or her relative, inasmuch as, the Case Diary clearly indicates that the applicant and her husband were present at the same spot of recovery and seizure, and that the husband of the applicant was present at the time of the arrest of the applicant. The learned Public Prosecutor submitted that the intimation under Section 47 was duly given to the accused, and the absence of a signature thereon, in the given facts of the case, does not prejudice the accused in any manner, the grounds of arrest under Section 47 of the BNSS were written in the vernacular Mizo language and contained all the particulars regarding the arrest.

9. As regards compliance with Section 48 of the BNSS, the learned Public Prosecutor submitted that intimation was given to the husband of the applicant, and the record clearly reveal that the husband of the applicant was always present at the spot. In fact, the record shows that he was the one who went to the Post Office to collect the parcels containing the contraband items and it was only because he was detained that the accused, who is his wife reached the spot. Therefore, any clerical irregularity in filling up the form of arrest intimation under Section 48 of the BNSS does not prejudice the accused or her relative in the given facts of the case. The husband of the applicant, to whom the intimation was given, was clearly aware of the reasons for which the arrest was

made, as both the accused and her husband were present at the spot at the time of search, recover and arrest.

10. The learned Public Prosecutor further submitted that the facts of the present case are different from the decisions of this Court relied upon by the learned counsel for the applicant, and as such, they cannot be applied to the facts of the instant case.

11. It is seen from the record that upon receiving information regarding the arrival of suspected drugs at the Post Office, Treasury Square, Aizawl, by the Central Anti Drug Squad of Central YMA, information was transmitted to the Excise & Narcotics Department, and the Excise and Narcotics Department personnel proceeded to the spot. Upon arrival, they identified 14 suspected parcels and waited for the arrival of the claimant. In the afternoon of the same day, Shri Malsawma, the husband of the applicant and a resident of Seling, came to collect the 14 parcels from the Post Office at Treasury Square, Aizawl. Being suspicious of the contents of the parcels, the Excise Department personnel detained Shri Malsawma and took him to the Excise & Narcotics Office in the Treasury Square area. Thereafter, on the same day, the accused, Smt. Lalremtluangi arrived and identified herself as the licensee and proprietor of M/s Tluangi Pharmacy for which the consignment was made. The record further

reveal that upon opening the parcels, 210 kgs of codeine containing 2,100 phials was recovered and seized.

12. The sequence of events on record clearly indicates that both the accused and her husband were present throughout the search, seizure, and arrest procedures. The record also shows that upon recovery, a case was registered against the accused for the offence punishable under Section 21(c) of the NDPS Act, 1985.

13. In the case at hand, the arrest memo/intimation furnished to the accused under Section 47 of the BNSS contained details regarding the arrest, the seized items, and the date and time of seizure. Intimation was also provided stating that the offence is non-bailable and that the arrestee has the right to engage legal counsel. Upon a bare perusal of the grounds of arrest prepared under Section 47 of the BNSS, this Court is satisfied that the statutory requirements under Section 47 of the BNSS have been duly complied with.

14. Regarding the intimation under Section 48 of the BNSS, the same was prepared in a standard format and bears the signature of Shri Malsawma, the husband of the accused. Although this intimation does not contain all the requisite particulars mandated by the decision of the Hon'ble Apex Court in ***Vihaan Kumar (supra)***, it is noteworthy that Shri Malsawma was present

alongside the accused throughout the arrest process. The record reflects that Shri Malsawma was the first to arrive at the spot, and following his claim over the 14 suspected parcels, the accused arrived and asserted ownership of the pharmacy. Therefore, under the facts and circumstances of the case, it is evident that Shri Malsawma was fully aware of the recovery, search, and seizure of the contraband items and the arrest of his wife, Smt. Lalremtluangi, as both were present at the scene together.

15. It is also noteworthy that in this case, when the application for bail was submitted to the learned Special Judge earlier, surprisingly, violation of Sections 47 and 48 was not pleaded. Considering the facts of the case, the silence on the part of the applicant in raising the issue of violation of Sections 47 and 48 of the BNSS has put the Court on guard as to whether the parties were prejudiced by the alleged irregularity.

16. This Court, in the case of ***Anar Ali Vs. State of Assam*** in ***Bail Appln. No. 8169/2025***, upon appreciation of the decisions of the Hon'ble Apex Court in ***Vihaan Kumar (supra)*** and ***Prabir Purkayastha v. State (NCT of Delhi)*** reported in **(*2024) 8 SCC 254***, amongst others, that when a specific form is not prescribed, insistence on written communication in every case is not mandatory. In such cases, substantial compliance with the requirement is sufficient unless

demonstrable prejudice is shown.

17. The learned counsel for the petitioner has placed reliance in the case of ***Joseph Lalrindika (supra)***, however, the facts involved in the aforesaid case are different from the present case, inasmuch as in that case, seizure was made from a vehicle driven by the petitioner, and it was not a case where a relative was also travelling with the petitioner. The facts of the case involving ***Lalchhuanliana(supra)*** are also different, as the petitioner therein was the owner of the vehicle and was not physically present in the vehicle at the time of the search and seizure.

18. In the case of ***Chinlianthang(supra)***, the record does not show that the relative as well as the petitioner were present at the same spot at the time of search, seizure, and arrest. This Court is not oblivious to the object of communicating the grounds of arrest to a relative. The object and purpose of the safeguard embodied in Article 22(1) of the Constitution read with Sections 47 and 48 of the BNSS is to make the constitutional protection against arbitrary deprivation of personal liberty meaningful and effective. Therefore, the requirement of informing the relatives is intended to enable such persons to take appropriate steps, including steps for securing the release of the arrested person at the earliest opportunity.

19. Considering the purpose of having the safeguards embodied in Article 22(1) of the Constitution read with Sections 47 and 48 of the BNSS and applying the same to the peculiar facts and circumstances of the case, this Court is of the view that there was substantial compliance with the provisions of Sections 47 and 48 of the BNSS, inasmuch as both the accused and the relative (i.e., the husband) were present together at the time of the arrest and were fully aware of the search, seizure, and the arrest itself.

20. In the given facts and circumstances of the instant case, this Court does not find any reason to enlarge the accused on bail at this stage.

21. The Bail Application stands dismissed.

JUDGE

Comparing Assistant