GAHC030006782026

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

Case No. : Bail Appln./90/2026

Sh. Lalmawia Kaipeng
H/o C.Lalnuniangi, R/o Ramhlun Sports Complex, Near ICI CHurch, Aizawl-796012

VERSUS

The State of Mizoram
Aizawl

Advocate for the Petitioner : K Remruatfela (Legal Aid Counsel)

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

B E F O R E
HON'BLE MR. JUSTICE HELEN DAWNGLIANI

ORDER

13.10.2026

Heard the learned counsels.

2. This is an application filed under Section 483 of the BNSS for enlarging the accused on bail.

3. The brief facts of the case is that on 23.01.2026 at about 6:00 PM, ASI Laltanpuia of Sairang Police Station submitted an enquiry report to the Officer-

in-Charge of the said Police Station to the effect that on 22.01.2026 at about 6:00 AM, while he was on duty at the Police Station, information was received that a farmhouse located at Lengte Village had been burnt down and one person had died in the incident. On the basis of the information, an enquiry was conducted, and Sairang P.S. Case No. 3/2026 dated 23.01.2026 under Section 326(q)/103(1) of the BNSS was registered and investigated.

4. During investigation, the accused, who is the husband of the deceased whose body was found inside the burnt house, was arrested. Upon completion of the investigation, a prima facie case was found against the instant applicant, and a charge sheet was laid against him for the offence under Section 326(q)/103(1) of the BNSS. The case is now at the stage of prosecution evidence, and it is submitted that out of the 13 prosecution witnesses listed in the charge sheet, 11 have been examined.

5. Mr. K. Remruatfela, learned Legal Aid Counsel for the applicant, submitted that they had earlier approached the learned trial court twice, raising more or less the same grounds and challenging the arrest and detention due to violation of Sections 47, 48 & 53 of the BNSS. The record contains the Order dated 16.02.2026 passed by the learned trial court in Bail Appln No. 27/2026, wherein the bail application was rejected on the ground that investigation was still

ongoing, thereafter, during the course of trial, another bail application was submitted, which was disposed of on 08.03.2026, wherein the ground raised was not considering the seriousness of the allegation and the materials collected during investigation.

6. The learned counsel submitted that though the applicant resides in Aizawl, he is basically from Tripura and is not fully acquainted with the Mizo language. The learned counsel also submitted that the principles laid down by the Hon'ble Supreme Court in ***Pankaj Bansal Vs. Union of India*** reported in ***(2023) SCC OnLIne 1244***, ***Prabir Purkayastha Vs State (NCT of Delhi)*** reported in ***(2024) 8 SCC 254, Vihaan Kumar Vs State of Haryana*** reported in ***(2025) 5 SCC 799***, and ***Mihir Rajesh*** reported in ***(2025) INSC 1288*** have been violated. It is also submitted that the provisions of Section 53 of the BNSS, which mandate medical examination of the accused, were also violated and the accused was not subjected to medical examination before he was remanded to custody. The learned counsel further submitted that the arrest intimation under Section 48 of the BNSS does not contain details of the case for which the arrest was made, the place of detention, or other details concerning the arrest, and that it was written in the Mizo language, with which the applicant and his family are not fully familiar.

7. The learned counsel has also placed reliance on the decision of this Court vide Order dated 20.04.2026 in Bail Appln No. 15/2026, wherein bail was granted for violation of Section 48 of the BNSS, and the decision of the Hon'ble Supreme Court in ***Jamna Lal vs. State of Rajasthan & Anr.***, reported in ***(2025) 9 SCR 98***, to drive home the point that in cases where the prosecution's case on merits is weak, such satisfaction may be considered even at the time of deciding a bail application. On this point, he submitted that out of the 11 prosecution witnesses examined so far, there is no concrete or substantial evidence that could ultimately result in the conviction of the accused.

8. The learned counsel therefore submitted that the accused may be released on bail and that he is willing to comply with any conditions that may be imposed in the event of his release on bail. He also submitted that since the accused is a permanent resident of Ramhlun Sports Complex, Aizawl, there is no risk of absconding, he has no criminal antecedents, and he shoulders the responsibility of looking after his family as well as his aged mother, who is about 75 years old.

9. On the other hand, Mrs. Vanneihsiami, learned Additional Public Prosecutor, opposed the application by submitting that a bare perusal of the intimation given under Sections 47 & 48 of the BNSS would indicate substantial

compliance with the aforesaid provisions and that the purpose of the said provisions has been fully met. The signature of the son of the accused on the intimation under Section 48 of the BNSS indicates his acknowledgement regarding the intimation, and since in their pleadings themselves they have clearly stated that they are permanent residents of Ramhlun Sports Complex, Aizawl, they are presumed to be acquainted with the vernacular Mizo language. The learned Additional Public Prosecutor further submitted that even if there were irregularity in the service of intimation under Sections 47 & 48 of the BNSS, that does not negate the purpose of Sections 47 & 48, on this ground, the learned Additional Public Prosecutor placed reliance on the decision in ***State of Meghalaya Vs. Sonam Raghuvanshi*** reported in ***(2026) SCC OnLine SC 1392***. In the said case, the Hon'ble Supreme Court differentiated between non-service of grounds of arrest and non-furnishing of adequate grounds of arrest. It was held that while the former category might vitiate the arrest, for the latter category, one has to see the prejudice caused to the accused. The learned Additional Public Prosecutor submitted that the instant case falls within the second category and no prejudice was caused to the accused applicant.

10. The learned Additional Public Prosecutor therefore submitted that no reasonable ground has been made out to enlarge the accused on bail at this stage.

11. From the facts of the case, it is seen that the instant accused and the deceased were husband and wife, and the place of the alleged incident was a farmhouse that they were occupying, while their permanent residence is at Aizawl. As regards compliance with Section 47 of the BNSS, the record shows that the offence under which he was arrested has been indicated, and the ground for arresting the accused has also been mentioned, namely, that he confessed to having set fire to the dwelling house knowing that his wife was sleeping inside, which resulted in her death. The intimation also informed the applicant that the offence is a cognizable offence. Prima facie, it therefore appears that the intimation given to the accused under Section 47 of the BNSS complied with.

12. Now turning to the arrest intimation under Section 48 of the BNSS, the record shows that the same was written in the Mizo language and contained the case number, the offence for which the arrest was made, and a statement that if he so desired, he could engage counsel. The intimation was signed by the accused, received and signed by Nathan Lalruatzela, the son of the accused, and also bares the signature of the Investigating Officer.

13. Section 48 of the BNSS may be abstracted hereunder for ready reference:

Section 48: Obligation of person making arrest to inform about the arrest,

etc., to a nominated person.

1. Information to Nominated Person: Every police officer or other person making any arrest under this Sanhita shall forthwith give the information regarding such arrest and the place where the arrested person is being held to any of his relatives, friends or such other persons as may be disclosed or nominated by the arrested person for the purpose of giving such information.

2. Duty of Police Officer: The police officer shall inform the arrested person of his rights under sub-section (1) as soon as he is brought to the police station.

3. Record of Information: An entry of the fact as to who has been informed of the arrest of such person shall be made in a book to be kept in the police station in such form as the State Government may, by rules, prescribe.

4. Duty of Magistrate: It shall be the duty of the Magistrate before whom such arrested person is produced, to satisfy himself that the requirements of sub-section (2) and sub-section (3) have been complied with in respect of such arrested person.

14. From the abstract of the above provision, it can be seen that the

information under Section 48 of the BNSS regarding the arrest is not merely information to the effect that the person has been arrested, it must also disclose the place of detention and other details of the arrest. In other words, the basic requirement is not only to inform about the arrest but also to disclose why the arrest was made. In the case at hand, a cursory reading of the arrest intimation does not meet the requirements of the arrest intimation contemplated under Section 48 of the BNSS.

15. The learned Additional Public Prosecutor has placed reliance on the decision in ***State of Meghalaya Vs Sonam Raghuvanshi***, wherein the Hon'ble Apex Court differentiated between non-furnishing of intimation and an irregularity in giving intimation, holding that an irregularity would not vitiate the arrest itself.

16. In the aforementioned case, the grounds of arrest were supplied to the accused, but the punishable offence was entered as Section 403 of the BNS instead of Section 103 of the BNS, which according to the Hon'ble Supreme Court was a typographical error, and held that such cases fall under the second category of non-furnishing of adequate reasons, which would not vitiate the arrest itself. In the case at hand, the facts are different inasmuch as the intimation does not contain the necessary ingredients stipulated under Section

48 of the BNSS.

17. The Hon'ble Supreme Court, in a catena of decisions, has made it clear that the purpose of inserting Section 48 of the BNSS is to ensure compliance with Article 22(1) of the Constitution so that not only the accused, but also his family, relatives, or nominated friend are aware of the grounds of arrest to enable them to arrange and secure bail, given that the liberty of a person is involved.

18. In the case at hand, the record clearly reveal that the arrest intimation given to the accused under Section 48 of the BNSS is wanting, and as decided by the Hon'ble Apex Court, the arrest itself stands vitiated since the defect is not merely a typographical error.

19. Accordingly, the bail application is allowed for violation of Section 48 of the BNSS. The accused shall be enlarged on bail upon furnishing a bail bond of ₹1,00,000/- (Rupees One Lakh only) with one reliable surety of the like amount to the satisfaction of the learned trial court with the following conditions:

i) The applicant shall attend the Court regularly and face the trial.

ii) He shall not, directly or indirectly, influence the witnesses.

iii) He shall not tamper with the evidence.

iv) He shall not commit any similar offence while on bail.

v) He shall not leave the territorial jurisdiction of the trial court during the period of trial without prior permission from the learned trial court.

20. With the above order, the Bail Application stands allowed and disposed of.

JUDGE

Comparing Assistant