GAHC030006972026

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

Case No. : Bail Appln./97/2026

Sh. Lalramthanga and Anr.
S/o Hrangbilsuma, R/o Khawmawi , Chin State, Myanmar 2: Sh. Lalzawr

VERSUS

The State of Mizoram
Aizawl

Advocate for the Petitioner : Ms Rashmi Borgohain

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

BEFORE
HONOURABLE MR. JUSTICE SANJEEV KUMAR SHARMA
ORDER

06.10.2026

Heard Mr. S. Borthakur, learned counsel for the petitioners. Also heard Mrs. Linda L. Fambawl, learned Public Prosecutor for the State respondent.

2. This is an application under Section 483 of the BNSS, 2023 seeking regular bail in connection with NDPS Case No. 254/2026 corresponding to Excise Case No. EX-N 137/2026 under Section 22 (c) of the NDPS Act, 1985.

3. The allegations is that on 05.05.2026, upon receipt of secret information, Inspector Jason Lalrinchhana and his team intercepted one vehicle being driven by one Lalchhanhima and petitioner No. 2, Lalzawra was travelling in the front passenger seat. On conducting interrogation, it was learnt that one contraband consignment of illicit drugs had already reached Aizawl upon being separately transported in another vehicle by one suspect namely Lalrama. Subsequently, the said Lalrama along with his vehicle was intercepted at Aizawl. During interrogation, it was revealed that the contraband had been concealed in the residence of one Lianpuia s/o Lalzawra at Ramthar Veng. Upon search of the house, one bundle of Methamphetamine was recovered and the total weight was found to be 14.52 kgs. Subsequently, on the basis of further investigation, the petitioner No. 1 was also apprehended.

4. The case has already been Charge-sheeted showing the present petitioners as the only two accused persons sent up for trial.

5. The learned counsel for the petitioners submits that the provisions of Section 48 of the BNSS were violated, inasmuch as, no grounds of arrest were mentioned therein.

6. On the other hand, the learned Public Prosecutor submits that the purpose of serving the notice under Section 48 of the BNSS is to enable the family members of the petitioners to arrange for legal representation of the petitioners and that purpose has been served since the case number and the corresponding provisions of law under which the petitioners were arrested has been mentioned in the aforesaid notices under Section 48 of the BNSS.

7. The aforesaid submission made by the learned Public Prosecutor deserves to be rejected, in view of the clear law laid down by the Hon'ble Apex Court in a catena of decisions including ***Vihaan Kumar Vs. State of Haryana*** reported in ***2025 INSC 162*** and reiterated in ***Mihir Rajesh Shah Vs. State of Maharashtra*** reported in ***2025 INSC 1288*** that the grounds of arrest in writing must be communicated to the relatives/friends /nominated persons of the arrested accused and failure to do so may render the arrest illegal.

8. Furthermore, a perusal of the scanned copy of the Trial Court Record also reveals that the memorandum of arrest prepared under Section 35 of the BNSS does not contain the signature of any family member of the petitioners or of any respected person of the place where the arrest was effected.

9. Having considered the aforesaid violations of the statutory and Constitutional rights of the petitioners under Article 22, the arrest is held to be illegal.

10. Consequently, the prayer for bail stands allowed.

11. The petitioners shall be released on bail on furnishing bail bond of Rs. 1 Lakh each with 2 (two) sureties of like amount to the satisfaction of the learned Trial Court.

12. It is further provided that the petitioners shall co-operate with the trial and shall not try to temper with the evidence in any manner.

13. It would be open to the Investigating Agency to make appropriate

application to the learned Trial Court in the event it is felt necessary to take the petitioners into custody, as per the law laid down in ***Mihir Rajesh Shah (Supra).***

14. Bail petition stands allowed accordingly.

JUDGE

Comparing Assistant