GAHC030007212026

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

Case No. : Bail Appln./102/2026

Sh. Letkhawluna
S/o Nghakthianngaii, Selam, District Champhai, Present Address - Central Jail, Aizawl

VERSUS

The State of Mizoram
Aizawl

Advocate for the Petitioner : Mr. Manojit Biswas

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

BEFORE
HON'BLE MR. JUSTICE NCHUMBEMO MOZHUI

JUDGMENT / ORDER

Date : 30-10-2026

Heard Mr. Manojit Biswas, learned counsel for the applicant/accused. Also heard Ms. Linda L. Fambawl, learned Addl. PP for the State.

2. The instant bail application is filed under Section 483 of the BNSS, 2023, praying for grant of bail to the applicant/accused namely, ***Lethkawluna*** in connection with Ngopa P.S Case No. 7/2026 dated 02/06/2026 u/s 21(c)/25/29 of NDPS Act, 1985.

3. The prosecution story in brief is that on03/06/2026, the petitioner was arrested while he was travelling in a Tata Nexon vehicle bearing Registration AS-11AE7144 driven by one of the co-accused namely, Thangkhansiam Guite and one occupant Hangkhanpau. Upon search of the vehicle, the Police recovered 42 soap cases containing 563 grams of suspected heroin and accordingly, Ngopa P.S Case No. 7/2026 dated 02/06/2026 u/s 21(c)/25/29 of NDPS Act, 1985 was registered and the applicant/accused was arrested.

4. The learned counsel for the applicant/accused submits that despite no contraband found in his possession nor without any specific allegation, transportation or recovery attributable to him, he was arrested by the Police on 03/06/2026 and produced before the Court of the learned Chief Judicial Magistrate Aizawl.

5. It is further submitted by the learned counsel for the applicant/accused that the arrest of the applicant/accused by the Investigating Agency was in complete violation of section 48 of the BNSS. In this regard, the learned counsel for the applicant/accused has drawn attention of this Court to the notice under section 48 of the BNSS which has been annexed to the bail application. The translated version of the notice is reproduced herein below:

> "*ARREST INTIMATION*
> *U/S 48 BNSS*
>
> *Reference: NOP-PS Case No. 7/2026 dated 02.06.2026, U/S21(c)/25/29 NDPS Act*
>
> *This is to inform that in connection with the above-mentioned case, your son Letkhawluna (34) S/o Nghakthianngaii of Selam, Champhai District has been arrested and is currently under the custody of Ngopa Police Station. He will be produced to the Judicial Magistrate on Dt. 04.06.2026. You may engage a lawyer to represent him.*
>
> *His family members are residing outside the district, but she cannot come to Ngopa Police Station, the information of his arrest has been conveyed to his mother Nghakthianngaii (Ph. 6009408057/8119833186). This intimation is also being provided to the community leaders for awareness.*
>
> *The content above is explained to accused in Paite language which he knows.*

The above-mentioned person is arrested by Ngopa Police and I am informing you this regard."

6. A reading of the aforesaid notice under section 48 of the BNSS 2023 indicates that no ground of arrest containing the minimum details as to the nature and quantity of the contraband or any particulars have been mentioned in the said notice.

7. Further, on perusal of the notice, it transpires that the arrest intimation has been conveyed to the mother of the applicant/accusedNghakthianngaii telephonically. The notice was merely conveyed to the applicant/accused's mother which does not contain the ground of arrest thereof.

8. Under such circumstances, the mandatory requirement under Section 48 of BNSS has not been complied with, rendering the arrest procedurally defective in violation of the statutory requirement of law which is entitled to the applicant/accused.

9. The learned counsel for the applicant/accused has further submitted that by order dated 09/10/2026 of this Hon'ble Court, the applicant/accused was directed to file additional documents as regard to the bail orders in connection with Bail Application No. 88 of 2026 in respect of co-accused, Sh. Thangkansiam Guite and Hangkhanpau,arising out of the same FIR Ngopa P.S Case No. 7/2026 whereby the Co-ordinate Bench of this Court has granted regular bail to the co-accused persons.

10. In support of his submission,the learned counsel relied on the decision of the case of **Vihaan Kumar** v. **State of Haryana and Another**, reported in **2025, SCC Online SC 269.**

11. The learned Addl. P.P for the State, Ms.Vanneihsiami fairly submitted that the mandate of law provided under Section 48 of the BNSS has been complied

with for the fact that the mother of the applicant/accused was telephonically informed of the arrest. However, she submitted that in the event of the Court granting bail to the present applicant/accused/accused, this Court may impose strictures/conditions to secure the presence of the applicant/accused during trial.

12. Head the learned counsel for the parties at length.

13. Upon consideration of the submission of the learned counsel for the parties and to properly analyze whether the procedure has been followed,thisCourt has taken into consideration the provision of section 48 of the BNSS, 2023.

14. The allegation of the violation of Article 21 and 22(1) of the Constitution of India have also been taken under consideration by this Courtinasmuch as, the requirement to communicate the grounds of arrest is concerned.

15. Article 22(1) of the Constitution requires that compliance can be made by communicating sufficient knowledge of the basic fact constituting the grounds of arrest to the person arrested. The grounds should be effectively and fully communicated to the arresteein a manner in which he will fully understand the same. Therefore, it follows that the ground of arrest must be informed in a language which the arrestee understands.Thus, the requirement ofinforming the person arrested of the ground of arrest is not a formality, but a mandatory constitutional requirementwhich is enshrined under Article 22included in Part III of the Constitutionunder the heading of Fundamental Rights.

16. Thus, it is a fundamental right of every person arrested and detained in custody to be informed of the grounds of arrest as soon as possible.If the grounds of arrest are not communicated to the arrestee, as soon as may be, he will not be able to effectively exercise the right to consult an advocate, it would

amount to violation of fundamental right. Thus, depriving the arrestee of his liberty.

17. This Court has also taken into consideration of the decision of the Apex Court in the case of *Vahaan Kumar (supra),* wherein the Apex Court has observed that:

> "*26. The stand taken before the High Court was that the appellant's wife was informed about the arrest. Information about the arrest is completely different from the grounds of arrest. The grounds of arrest are different from the arrest memo. The arrest memo incorporates the name of the arrested person, his permanent address, present address, particulars of FIR and Section applied, place of arrest, date and time of arrest, the name of the officer arresting the accused and name, address and phone number of the person to whom information about arrest has been given. We have perused the arrest memo in the present case. The same contains only the information stated above and not the grounds of arrest. The information about the arrest is completely different from information about the grounds of arrest. Mere information of arrest will not amount to furnishing grounds of arrest.*"

18. On perusal of the records, it has been found that arresting authority while arresting, the applicant/accused,had not complied with the mandatory provision of section 48 of the BNSS, on the ground that, no communication in writing to the arrestee was made, nor to his relatives.Further, the mandated requirement under Section 48 of the NDPS Act, that is, arrest intimation was given to the applicant/accused mother, that too through telephonically.

19. Therefore, in the facts of the case, this Court has no hesitation in holding that the arrest of the applicant/accused was rendered illegal on account of failure to communicate the grounds of arrest to the applicant/accused, as

mandated under Article 22 of the Constitution of India, and non-compliance of Section 48 of the BNSS, 2023.

20. Further, this Court has also taken consideration the fact that similarly situated co-accused, namely, Sh. Thangkansiam Guite and Hangkhanpauwere released by the Co-ordinate Bench of this Court on the ground of violation of the mandated provision of Section 48 of the BNSS,2023.

21. Taking consideration of the factual aspect and the settled position of law, this Court is of the view that applicant/accused be released who is presently injudicial custody.

22. Accordingly, the bail application is allowed and the applicant/accused shall be released on bail, subject to the fulfilment of the conditions and satisfaction of the learned Court of Special Judge, Aizwal:

(1) The accused/petitioner shall be released on bail on furnishing a bail bond of Rs.1,00,000/- (Rupees one lakh) with two separate sureties of the like amount.

(2) One of the sureties shall be a permanent resident of Aizawl residing in his/her own house, and the other surety shall be a regular Government servant, duly certified by the competent controlling authority.

(3) The accused/petitioner and sureties shall furnish photocopies of their Aadhaar Card/EPIC and three recent passport-size photographs.

(4) The accused/petitioner shall file Affidavit declaring his place of stay at Aizawl and shall not leave the territorial jurisdiction of this Court without prior permission of this Court.

(5) The accused/petitioner shall appear before the learned Trial Court on every date fixed for hearing and shall not commit any offence while on bail.

(6) The accused/petitioner shall furnish his mobile telephone number and the mobile telephone number of one responsible member of his family to the learned Trial Court and shall keep the same operational during the pendency of the trial.

(7) Any deliberate violation of these conditions above, without sufficient cause, shall render the ball liable to cancellation in accordance with law.

23. The applicant/accused shall approach the learned Special Judge, NDPS, Aziwal for execution of bond and other related formalities as prescribed by law for release.

24. With the above observations and directions, the bail application stands disposed. No order as to costs.

JUDGE

Comparing Assistant