GAHC020007272026 2026:GAU-NL:564

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

Case No. : Bail Appln./24/2026

CHOTSABA SANGTAM
S/O LATE SEIKYU SANGTAM, DISTRICT - KIPHIRE, NAGALAND, P/A JAIL WARD, KIPHIRE, NAGALAND

VERSUS

THE STATE OF NAGALAND
REPRESENTED BY THE PUBLIC PROSECUTOR, GOVT. OF NAGALAND

Advocate for the Petitioner : TOSHITEMJEN PONGENER,

Advocate for the Respondent : P.P, NAGALAND,

BEFORE
HONBLE MRS JUSTICE HELEN DAWNGLIANI

ORDER

Date : 26-10-2026

Heard Mr. Toshitemjen Pongener, learned counsel for the petitioner. Also heard Ms. S. Mere, learned PP for the State respondent.

2. This application is filed under section 483 of the BNSS with a prayer

for release of the accused, namely, Repongli, on bail.

3. The brief facts of the case is that on 04.05.2026, an FIR was lodged with the Officer-in-Charge of the Kiphire Women PS, Nagaland by the father of the victim which was registered as Kiphire Women PS Case No. 0001/2026 under section 74/79/109/115(2)/351(2) BNS against the accused person.

4. The facts involving the present application is that on 04.05.2026, the accused physically assaulted and attempted murder of the daughter of the complainant and as a result of which, the FIR was submitted by the father of the victim. It is submitted in the Bar that investigation has been completed and the chargesheet has been filed against the instant accused. However, the case is yet to proceed for trial.

5. The accused has earlier approached the learned Trial Court for grant of bail raising issues regarding non-compliance of Section 47 BNSS, 2023. However, the same was rejected by the learned Trial Court. The main contention of the learned counsel for the petitioner is again the violation of Section 47 BNSS, 2023, the violation of which would result in violation of Article 22(1) of the Constitution. The learned counsel in support of his contention has placed on record the decision of this Court in the case of ***Sakib Choudhury Vs. State of Assam*** reported in ***2025 (3) GLT 399***.

6. Per contra, Ms. S. Mere, the learned PP submitted that there was substantial compliance of Section 47 BNSS and that no prejudice was caused to the accused. The learned PP further submitted that the record speaks for itself and as per the record, there is no delay in furnishing the

notice under Section 47 BNSS. The learned PP, therefore, submitted that the learned Trial Court has fully appreciated the grounds put forward by the petitioner and has rightly rejected the bail application and therefore, the instant application should also be rejected.

7. In the case at hand, the record shows that the FIR was submitted on 04.05.2026 and for which the Women PS Case No. 0001/2026 under section 74/79/109/115(2)/351(2) BNS was registered. The record further shows that the accused was arrested on 05.05.2026 at 11:00 Hrs as per the arrest memo. As noted before, the main grievance of the petitioner herein is the non-compliance of Section 47 BNSS.

8. An extract of the notice under section 47 is reproduced below:-

> *"FORMAT FOR INFORMATION OF GROUNDS OF ARREST IN COMPLIANCE WITH THE CONSTITUTIONAL MANDATE UNDER ARTICLE 22 (1) OF THE CONSTITUTION OF INDIA AND STATUTORY PROVISIONS UNDER SECTION 47 BNSS.*
>
> *I Sentiwapang NPS SDPO (name and designation of the arresting officer), hereby cause arrest of Repongli (name of the person being arrested) in connection with Women Police Station Case No. 0001/26 U/S 74/79/109/115(2)/351(2) BNS on 05/05/26 at 11:00 hrs on the basis of the following ground'/s of arrest:*
>
> *……Physical assult with attempt to murder……*
>
> *That, the arrest had been made after imparting and communicating the basic facts constituting the grounds for his/her arrests effectively in the language which he/she understands.*
> *Note: "Grounds of arrest' would be required to contain all such details in hand of the 1.0 which necessitated the arrest of the accused. simultaneously, the grounds of arrest informed in writing must convey to the arrested accused all basic on which he was being arrested so as to provide him an opportunity of defending himself against custodial remand and to seek bail. Thus, the 'grounds of arrest would invariably be personal to the accused and cannot be equated with the*

reasons of arrest which are general in nature.

Signature of the arresting office
Name: Sentiwapang NPS
Rank: SOPO
Police station: WPS Kiphire
Place & Date: WPS Kiphire

Acknowledgement by the arrested person

I Repongli s/o Sukyu Sangtam have been informed/conveyed about the basic facts constituting the grounds of my arrest in a language I understand (language Nagamese) and I acknowledge the receipt of this document.
Signature/Thumb/Impression of the arrested person.
Name: Repongli
Contact number: 6009845850
Place & Date: Women PS Kiphire Dated-05/05/26.
Copy to:
1. Family/relatives/friend Sepichola."

9. In the case of ***Pankaj Bansal Vs. Union of India*** reported in **(*2024) 7 SCC 576,*** the Hon'ble Apex Court has held that Article 22(1) of the Constitution provided *interalia* that no person shall be detained in custody, unless information on grounds of arrest which is his fundamental right is furnished to him and the mode of conveying the arrest must necessarily be meaningful so as to serve the intended purpose. That being so, there is no valid reason as to why an arrested person shall not be given in writing the grounds of arrest without exception as oral information or the grounds being read out to the arrested person may boil down to the word of the arrested person being against the word of the authorized officer. Secondly, since the information is not only to apprise the arrested person of the reason of his arrest but also to enable him to seek a legal counsel and thereafter present the case before the Court. So

in the aforesaid case, it was decided that notice under section 47 and 48 BNSS should be given in writing to best sub-serve the intend of Article 22(1) of the Constitution and that failure to comply the same would render the arrest and detention illegal for violation of the fundamental rights.

10. The same was reiterated in the case of ***Prabir Purkayastha Vs. State (NCT of Delhi)*** reported in ***(2024) 8 SCC 254.*** In the case of ***Prabir Purkayastha*** (supra) it was held as follows:

> *"**48.** It may be reiterated at the cost of repetition that there is a significant difference in the phrase 'reasons for arrest' and 'grounds of arrest'. The 'reasons for arrest' as indicated in the arrest memo are purely formal parameters, viz., to prevent the accused person from committing any further offence; for proper investigation of the offence; to prevent the accused person from causing the evidence of the offence to disappear or tempering with such evidence in any manner; to prevent the arrested person for making inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to the Investigating Officer. These reasons would commonly apply to any person arrested on charge of a crime whereas the 'grounds of arrest' would be required to contain all such details in hand of the Investigating Officer which necessitated the arrest of the accused. Simultaneously, the grounds of arrest informed in writing must convey to the arrested accused all basic facts on which he was being arrested so as to provide him an opportunity of defending himself against custodial remand and to seek bail. Thus, the 'grounds of arrest' would invariably be personal to the accused and cannot be equated with the 'reasons of arrest' which are general in nature."*

11. From the said decision it is clear that the grounds of arrest is required to contain all such details in the hand of the Investigating Officer

which would necessitate the arrest of the accused. It is also clear from the said decision that the reason for arrest and the grounds of arrest are different and that the grounds of arrest would invariably be personal to the accused and it cannot be acquainted with the reasons of arrest.

12. Upon examining the grounds of arrest mentioned in respect of the instant accused while giving information under Section 47 BNSS, it *prima facie* appears that the grounds of arrest mentioned therein does not contain all the details in the hand of the Investigating Officer, which is required for the arrest of the accused, though interestingly in the format it is clearly mentioned that 'the grounds of arrest would be required to contain all such details in hand of the Investigating Officer which necessitated the arrest of the accused'.

13. The same issue was raised before the learned Trial Court but the bail application was rejected. In this regard, the Hon'ble Apex Court in the case of ***Babu Singh and Ors Vs State of UP*** reported in ***(1978) 1 SCC 579,*** it was held that an order refusing the application for bail does not necessarily preclude another, on a later occasion giving important materials, further developments and different considerations.

14. In the case at hand, the information given to the accused under Section 47 BNSS *prima facie* appears to be wanting and it is clearly held by the Hon'ble Apex Court in the aforementioned cases, i.e., ***Pankaj Bansal*** (supra) and ***Prabir Purkayastha*** (supra) that violation of the same amounts to violation of the fundamental rights guaranteed under Article 22(1) of the Constitution of India and that the arrest itself is

vitiated.

15. For the foregoing reasons, this Court is of the view that in the facts and circumstances of the case, there was non compliance of Section 47 BNSS and in the backdrop of the interpretation given by the Hon'ble Apex Court as cited above as well as in a catena of other similar decisions, this Court is of the opinion that the accused is entitled to be enlarged on bail for violation of Section 47 BNSS.

16. Accordingly, the accused, namely, Repongli, is enlarged on bail with a bond of Rs. 1,00,000/- (Rupees one lakh only) with one solvent surety of like amount to the satisfaction of the learned Trial Court. The bail conditions are:-

(i) He shall attend court regularly;

(ii) He shall not influence witnesses or tamper with evidence;

(iii) He shall not commit any offence or other similar offences while on bail;

(iv) He shall not leave the jurisdiction of the Trial Court without prior permission of the Court.

17. With the above order, the bail application stands disposed of.

JUDGE

Comparing Assistant