GAHC020008312026 2026:GAU-NL:606

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

Case No. : CRL.REVN/22/2026

SMTI. NISHELI
D/O LATE GHUHAPU SWU, R/O HOUSE NO. MRHB - 50,
PARAMEDICAL COLONY, WARD 18, KOHIMA SARDAR, KOHIMA,
NAGALAND

VERSUS

THE STATE OF NAGALAND
PUBLIC PROSECUTOR, NAGALAND

Advocate for the Petitioner : NISUKA CHISHI, R SEMY,ALITO SWU

Advocate for the Respondent : P.P, NAGALAND,

BEFORE
HONBLE MRS JUSTICE HELEN DAWNGLIANI

ORDER

29.10.2026

Heard the learned counsels.

2. This application is filed under Section 438 read with Section 442 of the BNSS with a prayer for release of Rs. 3,50,000/- (rupees three lakhs

thirty thousand) on Zimanama.

3. The brief facts of the case is that on 07.01.2026, at around 4:30 PM, verbal information was received at Sub. Urban P.S. from the Assam Rifles that they have reliable information regarding possession and smuggling of heroin at Thahekhu Village, Block 7. Pursuant to the said information, a General Diary Entry (GDE) at the Police Station vide SBNPS GDE No. 13/2026 dated 17.01.2026 was registered, and intimation was given to the superior officers. Accordingly, police officials from SBNPS along with 15th Assam Rifles personnel proceeded to the spot at Thahekhu Village. During the operation, the residence of Smt. Yasheli Swu (accused) was raided in the presence of independent witnesses.

4. During the search, 7 (seven) soap boxes containing suspected heroin/shanflower was recovered and seized from the steel almirah in the bedroom belonging to the aforesaid accused, Yasheli Swu. Upon weighing, the contraband weighed approximately 82.90 grams, and was subsequently packed and sealed in the presence of independent witnesses. In the course of search, an amount of ₹3,50,000/- (Rupees three lakhs fifty thousand) in cash suspected to be the proceeds of the said contraband drug was also recovered and seized from the almirah

within the house of the aforesaid accused. Investigation ensued and ultimately culminated in the filing of a charge sheet against the accused for the offence punishable under Section 21(b) of the Narcotic Drugs and Psychotropic Substances (NDPS) Act.

5. In the meantime, an application was submitted before the Court of the learned Special Judge, NDPS, Dimapur, by way of an Interlocutory Application registered as I.A. No. 256/2026, with a prayer for the release/withdrawal of the aforesaid cash amounting to ₹3,50,000/-. However, the said application was rejected by the trial court vide its Order dated 14.05.2026.Being aggrieved, the applicant has approached this Court invoking the provisions of Sections 438 and 442 of the BNSS with a prayer to release the aforesaid amount.

6. Mr. Nisuka Chishi, learned counsel for the applicant, submitted that the applicant is the sister of the aforementioned accused and has no involvement in connection with GR Case No. 20/2026, registered under Section 21(b) of the NDPS Act. According to the learned counsel, the applicant is a nurse working under the Government of Nagaland, Department of Health & Family Welfare, and is residing in Kohima. The applicant and the accused are siblings, and on 28.11.2025, the applicant

obtained a Bank loan for purchasing construction materials and paying laborer wages for the ongoing construction of her residential house at Nihoto Village, Niuland District. The learned counsel submitted that on 28.11.2025, an amount of ₹8,00,000/- (Rupees eight lakhs) was withdrawn from her bank account through a self-cheque, after which the applicant handed over the entire amount to her sister (the accused), who acted as a caretaker for the ongoing construction of their residential building. It was further submitted that an amount of ₹4,50,000/- (Rupees four lakhs fifty thousand) was utilized for the purchase of materials, and the remaining amount of ₹3,50,000/- was retained by the accused in her house. The learned counsel argued that the aforesaid amount is in no way related to the alleged recovery of contraband drugs made from the house of the accused.

7. The learned counsel further submitted that the cash was obtained lawfully through Bank loan, and since the accused is the sibling of the applicant, she was entrusted with the construction of the house, and that was how the money came to be in the possession of the accused. It is therefore prayed that since the cash amount of ₹3,50,000/- is unrelated to any offence punishable under Section 21(b) of the NDPS Act, the same

may be released to her, along with an undertaking to comply with all conditions that may be imposed in the event of the application being allowed.

8. On the other hand, Ms. Meri, learned Public Prosecutor, opposed the application by submitting that the learned trial court passed a reasoned order while rejecting the application for the release of the aforesaid amount. It is submitted that the submissions advanced by the learned counsel for the applicant are yet to be ascertained during the course of the trial, and at this premature stage, releasing the money on Zimanama to the applicant could result in prejudice to the prosecution. The learned counsel emphasized that considering the stage of the case where evidence is yet to be recorded the status and origin of the seized amount can only be determined through trial, and accordingly prayed for the dismissal of the application.

9. I have perused the scanned copies of the record of G.R. Case No. 20/2026, including the statements recorded under Section 161 of the CrPC/BNSS. The main contention of the applicant is that the aforesaid amount of money, which was seized from the house of the accused at the time of the recovery of the contraband drugs, does not represent the sale

proceeds of the contraband, but rather belongs to the applicant (the sister of the accused), who entrusted the same to the accused as a caretaker to look after the construction of their house. Upon perusal of the materials placed before this Court, the submission of the applicant that the money is unconnected with the sale proceeds of the drugs recovered from the house of the accused or that it is unrelated to any illegal activity is not supported by any independent material or corroborative evidence contained in the charge sheet, including the statements of witnesses.

10. It is an admitted position that the chargesheet has been filed recently and the trial is at its nascent stage.

11. Considering the manner in which the recovery was effected, the materials placed on record, and the present stage of the proceedings, this Court finds favor in the submission of the learned Public Prosecutor to the effect that it is premature at this stage to release the money to the applicant.

12. I have also perused the order passed by the learned Trial Court in I.A. No. 256/2026 dated 14.05.2026 and am satisfied that the application was rejected by a well-reasoned order. This Court finds no ground or reason to interfere with the same under the unchanged circumstances.

13. In view thereof, the application stands dismissed and is accordingly disposed of.

JUDGE

Comparing Assistant