GAHC040015842026

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

Case No. : BA/92/2026

Sahjahan Ali Son of Ejjat Ali, resident of Rampur, Lakhimpur, Assam 787031, presently residing at Kimin, PO and PS Kimin, Papum Pare District, Arunachal Pradesh.

VERSUS

The State of AP represented by the PP of AP

Advocate for the Petitioner : Loma Kurdu, Take Kyamdo,Kolin Dagium,Yombom Nasi Tamin
Advocate for the Respondent : P P of AP,

BEFORE
HONOURABLE MR. JUSTICE BUDI HABUNG

ORDER

Date : 05.10.2026

Heard Mr. L. Kurdu, learned counsel for the applicant. Also heard Mr. T. Ete, learned Additional Public Prosecutor for the State respondent.

2. The applicant, stated to be the brother of the accused, has filed this application under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023, praying for release of the accused, Azmal Ali, who has been arrested in connection with Taliha P.S. Case No. 05/2026 under Sections 318(4)/61(2)(a) of the BNS.

3. The prosecution case is that on 17.08.2026, a written FIR was received

from one Shri Jepor Arma and five others*, inter alia*, alleging that three accused persons, namely, Shri Saddam Hussain, Smti. Rubsana Begum, and Shri Azmal Ali, had cheated and fraudulently induced them to incur loss of money and materials by making a false promise to complete the work assigned to them in consideration of payment of money. However, they neither completed the work nor returned the money and materials. Accordingly, the aforesaid Taliha P.S. Case was registered against them, and the present accused, Azmal Ali, was arrested on 27.08.2026.

4. Learned counsel for the petitioner submits that, while arresting the accused, the police failed to furnish the grounds of arrest under Section 47 of the BNSS and also failed to furnish the same to his relative as mandated under Section 48 of the BNSS. However, during the hearing, learned counsel for the petitioner clarified that he is no longer pressing the ground of non-compliance with Section 47 of the BNSS, as the information was stated to have been communicated to the mother of the accused, Smti. Asma Begum, telephonically. Learned counsel for the petitioner further submits that the remand order passed by the learned Magistrate is also mechanical, without justifying the further remand of the accused. It is further submitted that the allegation against the accused is that money was taken from the informant and the same was not returned; as such, the allegation is civil in nature and does not attract any criminal offence.

5. On the contrary, the learned Additional Public Prosecutor submits that the arrest of the accused was made pursuant to the warrant of arrest issued by the learned Magistrate in connection with the aforesaid Taliha P.S. Case No. 05/2026. He further submits that, since the accused was absconding, he was arrested from Jonai and brought to Daporijo. Upon his arrest, the grounds of arrest were communicated to him as well as to his family, and since his family resides in Assam, their mobile phone numbers were collected and, accordingly,

the grounds of arrest of the accused were communicated to them over the telephone. The learned Additional Public Prosecutor further submits that, since the accused was arrested in execution of the non-bailable warrant of arrest issued against him by the learned Magistrate, and his arrest as well as the grounds of arrest were duly communicated to him and to his mother, Smti. Asma Begum, through her mobile phone, no prejudice has been caused to the petitioner. Therefore, the claim that no information regarding his arrest was given to his family is incorrect.

6. Heard the submissions advanced by learned counsel for both the parties and also perused the case diary produced.

7. The record reveals that the accused had allegedly accepted certain amounts from the informant, for which he had signed a money receipt. It appears that there was some monetary transaction between the informant and the accused for completion of certain works and delivery of certain materials; however, the materials allegedly could not be delivered within the stipulated time, nor was the money returned. The record further reveals that the accused was arrested on 27.08.2026 and has remained in custody since then. The case diary would further reveal that the police have thoroughly interrogated the accused and that the investigation has substantially been completed, except for the arrest of a few co-accused persons alleged to have been involved in the case, including Smti. Rubsana Begum. Since the accused, who is alleged to have taken money from the informant, has already been arrested, the involvement and arrest of the other co-accused persons would hardly have any bearing for the purpose of consideration of his bail.

8. Learned counsel for the petitioner submits that the accused has been cooperating with the investigation and is further ready and willing to cooperate with the investigation and trial and to abide by any conditions that may be imposed by this Court.

9. Considering the nature of the allegations, the facts and circumstances of the case, the period of detention already undergone by the accused, and having regard to the stage of the investigation, which is stated to be almost complete, and further considering that the Investigating Officer of the case has stated that the Court may decide the matter of bail of the accused as it deems fit and proper, and that there is no prayer for further remand of the accused, this Court deems it appropriate to release the accused on bail.

10. Accordingly, the prayer for grant of bail is allowed. The accused, Azmal Ali, is directed to be released on bail on execution of a bail bond of Rs. 30,000/- (Rupees thirty thousand only) with one surety of like amount to the satisfaction of the learned jurisdictional Magistrate, subject to the following conditions:

i. that he shall cooperate with the investigation and appear before the Investigating Officer as and when called for;

ii. that the applicant shall not, directly or indirectly, make any inducement, threat, or promise to any person acquainted with the facts of the case so as to dissuade such person from disclosing such facts to the Court or to any police officer; and

iii. that he shall not commit any offence of a similar nature to the offence of which he is alleged to have committed.

11. In terms of the above, this bail application stands disposed of.

JUDGE

Comparing Assistant