GAHC040017132026

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

Case No. : BA/96/2026

Chukhu Loma
Son of Chukhu Nitin, resident of Gumto -I Village, PO and PS Doimukh, Papum Pare District, Arunachal Pradesh.

VERSUS

The State of AP
represented by the Special PP (ACB)

Advocate for the Petitioner : Daina Tamuk, Minzar Lollen,Jimi Sono,Omor Panggam,Gengam Rolley,Jaconia Gao,Reniyam Takam,Dadi Bote Pada,Doge Lona,Marge Doji

Advocate for the Respondent : Ojing Pada, SC (ACB)

BEFORE

HON'BLE MR. JUSTICE NELSON SAILO

O R D E R

14.10.2026

Heard Mr. D. Panging, learned senior counsel assisted by Mr. C. Tajo, learned counsel for the applicant, who submits that by filing this bail application under Section 483 of the BNSS, 2023, the applicant seeks his release on bail in connection with ACB P.S Case No.09/2025 registered under Section 120(B)/468/471/420 IPC read with Section 13(2) of the PC Act, 1988.

2. Learned senior counsel submits that the petitioner was arrested after being brought from Guwahati at the ACB Police Station, Itanagar on 13.09.2026 at 19:40 hours. On his arrest, he was taken for medical examination at TRIHMS, Naharlagun, wherein he was found to be in a serious condition and therefore, admitted to the ICU. Although intimation was given by the Investigating Authority to the learned Trial Court concerned about this fact, but the learned Trial Court has failed to pass any order remanding him in custody for further production on a fixed date. The petitioner continued to remain in the ICU in TRIHMS, Naharlagun till 01.10.2026. After being released from the ICU, he was in the medical ward of TRIHMS, Naharlagun till 08.10.2026. The petitioner was then produced before the learned Trial Court on 08.10.2026 and remanded to judicial custody for 08(eight) days. On his remand, the petitioner was again admitted in the hospital on 10.10.2026 and released on 13.10.2026. He is now taken back into judicial custody i.e. in jail.

3. Learned senior counsel submits that the aforesaid action clearly violates Article 58 and 62 of the BNSS, 2023 and also Article 22(2) of the Constitution of India in view of the fact that the petitioner was not produced before the Court within 24(twenty four) hours of his arrest and that although he was admitted in the ICU at TRIHMS, Naharlagun, his status is not of a free person, but of an arrestee. Therefore, in absence of any order of remand beyond the period of 24(twenty four) hours, his arrest is only vitiated after completion of 24(twenty four) hours. He further submits that since the petitioner has serious illness and is not in a fit condition to stay in jail, he may be released from jail. In support of his submission, Mr. D. Panging, learned senior counsel has relied upon the

decision of a co-ordinate Bench of this Court in ***Bittu Kumar v. State of Assam, represented by the P.P., Assam***, reported in ***2025 SCC OnLine Gau 2842***.

4. Mr. O. Pada, learned Special Public Prosecutor, ACB, Arunachal Pradesh on the other hand submits that the petitioner is involved in a serious case, which involves misappropriation of public fund amounting to more than rupees 40(forty) crores. Due to his health condition, the Investigating Authorities could not properly interrogate him till now and recently they sought permission from the learned Trial Court to interrogate him in jail. He also submits that the Investigating Authorities also on their part had done their duty in informing the learned Trial Court about the status of the petitioner when he was taken for medical check-up at TRIHMS, Naharlagun. Therefore, non-remanding of the petitioner after being arrested, is not attributable to the Investigating Authorities. He however, submits that the petitioner is a retired Government servant, who is more than 62(sixty two) years as of now and has a poor health condition. Learned Special Public Prosecutor has also produced the Case Diary for perusal of this Court.

5. I have heard the submissions made by the learned counsel for the rival parties and have perused the materials available on record including the Case Diary.

6. From the materials available on record, it can be seen that the petitioner after being arrested on 13.09.2026, had not been produced before the learned Trial Court and hence, there was no remand order. No doubt the petitioner was put in the ICU and this fact had also been informed to the learned Trial Court as can be seen from the order dated

23.09.2026 passed by the Court of learned Special Judge, PC Act, Yupia. Such being the situation, apparently the provisions of Sections 58 and 62 of the BNSS, 2023 appears to have been violated.

7. A co-ordinate Bench of this Court in Bittu Kumar (supra), has held in the given facts of that case, which appears to be similar of the present case that although the arrestee on being taken for medical examination was admitted to the hospital, but without an order for remand, his status is not that of a free person, but of an arrestee, which therefore, infringes his right guaranteed under Article 22(2) of the Constitution of India. Further, Section 58 of the BNSS, 2023 provides that on being arrested, an arrested person should be produced before the Court and cannot be retained for more than 24(twenty four) hours.

8. Such being the position, this Court is of the considered view that the petitioner is entitled to go on bail.

9. In view of above, the petitioner is allowed to go on bail by furnishing a bond of Rs.50,000/- (Rupees fifty thousand) with two local sureties of the like amount subject to the satisfaction of the learned Special Judge, PC Act, Yupia with the following conditions:-

(i) The petitioner on being released shall appear before the Investigating Officer of ACB P.S Case No.09/2025 on 19.10.2026 and shall co-operate with the investigation;

(ii) The petitioner shall not leave the jurisdiction of the learned Special Judge, PC Act, Yupia without prior leave of the said Court;

(iii) The petitioner shall provide his contact details including photocopy of Adhar Card, Driving License, PAN Card, Mobile Number

etc. and other contact details before the Court of learned Special Judge, PC Act, Yupia;

(iv) The petitioner shall not hamper with the evidence and shall not try to influence any of the witnesses in the case and shall extend full co-operation in the investigation; and

(v) Violation of any of the above bail conditions would make the bail granted to him liable to be cancelled.

10. Accordingly, the bail application stands disposed of as allowed.

11. The Case Diary be returned back to the learned Special Public Prosecutor, ACB.

JUDGE

Comparing Assistant