GAHC010195532026

2026:GAU-AS:15694

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

Case No. : Bail Appln./2676/2026

PARGAT SINGH AND ANR
S/O JAGVEER SINGH, RESIDENT OF KESAR SINGHWALA, P.S. DIYALPURA, DIST. BATHINDA, PUNJAB.

2: SANDEEP SINGH
S/O-BALVEER SINGH
RESIDENT OF WARD NO.1
5 J D W
JANDAWALI
HANUMANGARH
P.S. HANUMANGARH
DIST. HANUMANGARH
RAJASTHAN

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR B M DEKA, MR. MASUM ALAM,MS. D BORA,M ARIF

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

14.10.2026

1. Heard Mr. B. M. Deka learned counsel for the petitioners namely, (i) Pargat Singh, and (ii) Sandeep Singh.

2. The petitioners have filed this application under Section 483 of the BNSS, 2023 with prayer for bail as they are behind bars since 11.12.2025 in connection with NDPS Case No. 30/2026 arising out of Dillai Police Station Case No. 67/2025 under Sections 18(b)/25/29 of the NDPS Act read with Sections 61(2)/123 of the BNS, 2023.

3. Heard Mr. B. Sarmah, learned Additional Public Prosecutor for the respondent State.

4. It is submitted that the petitioner No. 1 is the driver of the vehicle seized in connection with this case whereas the petitioner No. 2 is the helper in the vehicle. It is submitted that 8 witnesses are enlisted in the charge-sheet and 5 witnesses have been examined. PW-2 & 3 are independent witnesses and the deposition of PW-4 reveals that he had taken the samples of the contraband to the Directorate of Forensic Science, Kahilipara and he was given a receipt from the DFSL, Kahilipara which was handed over to the Investigating Officer. This receipt is not available according to his evidence. This non-availability of the receipt exonerates the petitioners.

5. This is a case of clear acquittal as samples of the contraband allegedly recovered have been forwarded for forensic test, but the receipt of the same is not available, and thus it is not clear if this is the same contraband which was

forwarded for forensic analysis.

6. It is also submitted that the opinion of the forensic science laboratory without a receipt cannot be relied upon and cannot be considered to be the opinion relating to the same contraband which was seized in connection with this case and forwarded for forensic test. It is further submitted on behalf of the petitioners that 9 kgs of opium was allegedly seized in connection with this case, but it is not clear if the opium is poppy straw. In case the opium is poppy straw, the commercial quantity will be 50 kgs and not 9 kgs.

7. The evidence of PW2 also exonerates the petitioners as he has categorically admitted in his cross-examination that he did not read the contents of the seizure list before affixing his signature on the seizure list.

8. It is submitted that as this is not a case of conviction, the petitioners are entitled to bail. The petitioners' right to liberty has been curtailed as this is a case of acquittal.

9. Learned Additional Public Prosecutor Mr. B. Sharma has raised serious objection stating that the search and seizure list appended along with the petition at page-32 clearly reveals that the seized contraband was a jelly-like substance and the colour was brown and the contraband was suspected to be opium weighing a total of 9.194 kgs. There is not a hint of poppy straw in the search and seizure list. It is clear that the seized contraband is opium.

10. The charge-sheet marked as Annexure-7 of the petition clearly reveals at page-54 that total 10 plastic packets wrapped with brown coloured duct tape containing brown coloured jelly-like substance suspected to be opium weighing around 9.194 kgs was concealed in a secret chamber built inside the toolbox of the truck bearing registration No. PB-03BL-2975. Thus, even without going into

the merits of the case, conscious possession cannot be ruled out. The seized contraband is nothing but opium. At this juncture, the evidence cannot be scrutinized like a mini-trial.

11. Learned Additional Public Prosecutor has relied on the decision of the Supreme Court in ***NCB Vs. Mohit Aggarwal in connection with SLP Criminal Appeal No. 6128-29 of 2021 in connection with Criminal Appeal No. 1001-1002 of 2022,*** wherein vide order dated 19.07.2022, it has been held that:-

> "*In our opinion the narrow parameters of bail available under Section 37 of the Act, have not been satisfied in the facts of the instant case. At this stage, it is not safe to conclude that the respondent has successfully demonstrated that there are reasonable grounds to believe that he is not guilty of the offence alleged against him, for him to have been admitted to bail. The length of the period of his custody or the fact that the charge-sheet has been filed and the trial has commenced are by themselves not considerations that can be treated as persuasive grounds for granting relief to the respondent under Section 37 of the NDPS Act.*"

12. Reverting back to this case, it has been submitted by the learned Additional Public Prosecutor that the embargo under Section 37 of the NDPS Act comes into play.

13. Learned Additional Public Prosecutor has also relied on the decision of the Supreme Court in ***Union of India Vs. Namdeo Ashurba Nakade in connection with SLP Criminal Appeal No. 9792/2025,*** wherein vide order dated 07.11.2025, it has been held that:-

> "*In the present case, this Court finds that though the Respondent-accused was in custody for one year four months and charges have not been framed, yet the allegations are serious inasmuch as not only is the recovery much in excess of the commercial quantity but the Respondent-accused allegedly got the cavities ingeniously fabricated below the trailor to*

conceal the contraband. Prima facie this Court is of the opinion that the Respondent-accused is involved in drug trafficking in an organized manner. Consequently, no case for dispensing with mandatory requirement of Section 37 of the NDPS Act is made out in the present matter.

Moreover, this Court is of the view that as the accused has been charged with offences punishable with ten to twenty years rigorous imprisonment, it cannot be said that the Respondent has been incarcerated for an unreasonably long time."

14. Reverting back to this case, it is held that this case is proceeding at a regular pace. 5 out of 8 witnesses have already been examined. After examination of 3 witnesses, the prosecution would be concluded. The offence alleged is of a serious nature and the embargo under Section 37 of the NDPS Act fetters bail in such cases. The evidence cannot be dealt with at this stage as this case is under trial. No case for dispensing with mandatory requirement of Section 37 of the NDPS Act is made up, atleast at this stage.

15. Petition with prayer for bail stands rejected at this stage.

JUDGE

Comparing Assistant