GAHC010211502026

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

Case No. : Bail Appln./3023/2026

PARBEJ UDDIN
SON OF ABDUL JALIL VILLAGE MUBARAKPUR POST OFFICE SILCHAR ROAD POLICE STATION KARIMGANJ DISTRICT SRIBHUMI ASSAM PIN 788713

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PP, ASSAM

Advocate for the Petitioner : MR. A M BARBHUIYA, S. M. ZINNA,MS S R MAZARBHUIYA

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MRS. JUSTICE SHAMIMA JAHAN

ORDER

Date : 14.10.2026

Heard Mr. AM Barbhuiya, learned Counsel for the petitioner and Ms. SH Bora, learned Additional Public Prosecutor for the State.

2. By this application, the petitioner has prayed for bail in connection with the Special NDPS Case No. 33/2025 pending before the Court of Special Judge,

Sribhumi, Karimganj, Assam corresponding to Karimganj PS Case No. 152/2025 registered under Sections 21(c)/25/29 of NDPS Act. The FIR in connection with which the petitioner was arrested on 27.03.2025 was lodged by the police personnel of the Karimganj Police Station stating inter alia that on an information that huge quantity of drugs were transported from Mizoram to Sribhumi District, the informant along with the team intercepted a vehicle at 06:05 am on 27.03.2025 during naka checking and on checking the said vehicle, 40 numbers of soap cases were recovered containing suspected heroine. It is also stated in the FIR that the petitioner being the driver along with one companion namely Rahim Uddin were apprehended.

3. The learned Counsel for the petitioner submits that upon conclusion of the investigation conducted by the Police, the Investigating Officer had submitted charge sheet on 10.09.2025 and that thereafter the concerned Court had also framed charges against the petitioner under Section 21(c)/25/29 of NDPS Act. The learned Counsel for the petitioner had taken sole ground for releasing the petitioner on bail is that the petitioner was produced before the concerned Court much after the mandatory period of 24 hours after he was arrested. He submits that the truck containing the suspected contraband was detained at 06.05 am on 27.03.2025 and the petitioner was also apprehended at the same time. He however submits that in the forwarding report, it is stated that the time of arrest of the petitioner was at 09:00 pm on 27.03.2025. He submits that the same will have no effect inasmuch as it is a settled position of law that the time, when the accused person is apprehended will be construed as the time of arrest. He submits that the Hon'ble Supreme Court as well as this Court had held that since it is not possible for the accused person to get away from the Police from the time of his apprehension, so the time of apprehension will be

considered as the time of his arrest. He as such submits that the petitioner being produced before the CJM, Karimganj on 28.03.2025, although the time is not given but since the apprehension time is early in the morning i.e. 06.05 am , his production is much later than 24 hours.

4. On the other hand, Ms. SH Bora, learned Additional Public Prosecutor for the State submits that in the forwarding report, it is clearly stated that the petitioner was arrested at 09:00 pm on 27.03.2025 and he was produced before the Court on 28.03.2025 i.e. within the period of 24 hours and as such, she submits that there is no infirmity in the arrest and production. She also submits that Section 37 NDPS comes into play in the instant case as the quantity recovered from the petitioner was of commercial quantity. She submits that there is no ground to presume that the petitioner has not committed the offence and also that he will not continue with the same offence during the bail. She also submits that while preferring an application for bail before the concerned Court, the petitioner had not taken this plea and it has been taken for the first time before this Court.

5. Upon considerations made by the learned Counsels, this Court finds as follows: In the FIR, it is clearly seen that at 06:05 am on 27.03.2025, the truck was intercepted and the petitioner was found to be driving that vehicle and in the FIR itself, it is stipulated that the police apprehended the petitioner along with another and that they had taken them to the Police Station at 11:50 am on 27.03.2025 along with the seized articles. It has been held by the Hon'ble Supreme Court as well as by this Court that the time when the accused person is apprehended by the police will be considered as being arrested, although the accused person may have been shown as arrest at a later point of time.

6. As such, in this case it is seen that the petitioner was apprehended early in

the morning on 27.03.2025, although he was shown arrest at 09:00 pm on 27.03.2025. Thereafter, it is seen that the petitioner was produced before the Court on 28.03.2025 and although no time is shown there but it can be reasonably construed that it is much after 06:05 am of 28.03.2025. As such, there is violation of Section 57 of CrPC, which is now Section 58 of BNSS, 2023. It is specifically provided in the said section that a person cannot be detained for a longer period under any circumstances then 24 hours exclusive of the time necessary for the journey from the place of occurrence to the Magistrate's Court.

7. In the present case, it is noticed that the petitioner was apprehended by the police personnel of Karimganj PS and he was produced before the Court of CJM, Karimganj, Assam and it is also stated by the petitioner that the distance to cover between the police station and the Court will take hardly half an hour time. As such, it is seen that the petitioner has been produced before the Court much after 24 hours, which is in violation of the law. It is also seen that the petitioner has been inside the jail for the last 1 year 6 months and 24 days and the case is at the appearance stage now.

8. Since there is violation of the constitutional provisions under Article 22(2) of the Constitution of India, this Court deems it fit to enlarge the petitioner on bail on furnishing of bail bond of Rs. 20,000/- with one local surety of the like amount to the satisfaction of Special Judge, NDPS, Sribhumi, Karimganj under the following conditions:

i) the petitioner will appear before the Trial Court as and when called for.

ii) the petitioner will not hamper, tamper with the evidence, neither influence the witnesses connected with the case.

iii) the petitioner will not leave the place of jurisdiction without the permission of the concerned Court.

9. Petition is disposed of.

JUDGE

Comparing Assistant