GAHC010213662026

2026:GAU-AS:15674

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

Case No. : Bail Appln./3021/2026

ANOWAR HUSSAIN
SON OF ABDUL SUKUR RESIDENT OF VILLAGE GANGPAR PS SRIBHUMI
DISTRICT SRIBHUMI ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PP, ASSAM

Advocate for the Petitioner : MR H R CHOUDHURY, Z HUSSAIN

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MR. JUSTICE ANJAN MONI KALITA

ORDER

Date : 14.10.2026

Heard Mr. H.R. Choudhury, learned counsel, appearing on behalf of the accused-applicant. Also heard Mr. M.P. Goswami, learned Addl. P.P., representing the State respondent.

2. This is an application filed under Section 483 of the BNSS, 2023, praying for

grant of bail to the accused-applicant in connection with Sribhumi P.S. Case No. 149/2026, registered under Sections 22(c)/25/29/27(a) of NDPS Act, 1985, pending at the court of learned Special Judge, Sribhumi.

3. An FIR was lodged on 24.06.2026, before the Sribhumi PS to the effect that on receipt of certain confidential information, the police team, being authorized, intercepted a vehicle with Registration No. AS-11FC-7616 and detained the driver. The driver disclosed his identity as Atish Dhar. On being searched the vehicle, 7,200 bottles of Eskuf Cough Syrup containing Codeine Phosphate and Triprolidine Hydrochloride, weighing about 849.600 Kg was recovered. During questioning, the aforesaid Atish Dhar had disclosed the name of one Bablu Das and Anwar Hussain to be involved in the same kind of activities, i.e., selling of narcotic drugs without valid documents. And thereafter, on information as received, a separate search operation was conducted in the place of Bablu Das and during the search, the police recovered 2,095 bottles of Eskuf Cough Syrup containing Codeine Phosphate and Triprolidine Hydrochloride. During spot verification, Bablu Das disclosed that Anwar Hussain was also involved in the illegal posession, transportation, and trafficking of NDPS contraband, and accordingly, he disclosed that huge quantity of narcotics contraband were concealed in the house of one Masuk Ali. With the information, he led the police team to the house of Masuk Ali and police recovered 2,400 bottles of Eskuf Cough Syrup containing Codeine Phosphate and Triprolidine Hydrochloride. The three accused persons were detained by police and they were arrested on the very same date and they have been behind bars since then.

4. The learned counsel appearing for the accused-applicant submits that the accused-applicant was arrested only on the confessional statement made by the co-accused and on suspicion. He further submits that the contraband materials were not recovered from his house, rather from the house of one Masuk Ali. He submits

that the search operation was conducted by a person not authorized as per the provisions of Section 42 of the NDPS Act. Therefore, the whole search, seizure, and arrest of the accused-applicant is illegal, and the accused-applicant should be enlarged on bail.

5. The learned Addl. PP, on the other hand, opposes the prayer of bail, stating that the issue regarding whether the search and seizure was conducted in terms of Section 42 or not are matters of trial.

6. This court has gone through the Case Diary which has been received.

7. It is seen from the materials available in the Case Diary that the contraband materials were recovered from the house of one Masuk Ali on the information given by the accused-applicant as well as he led the police team for such recovery. It is also seen that the police officer who has conducted the search has been empowered being in the level of Sub-Inspector, vide a notification of the Government of Assam. It is also seen that before the search was conducted, Section 50 NDPS notice has also been given to the accused person.

8. Taking into account the aforesaid and also taking into account the observation of the Hon'ble Supreme Court in the case of **Union of India through Narcotics Control Bureau, Lucknow Versus Md. Nawaz Khan** in **Criminal Appeal No. 1043/2021 (arising out of SLP (Crl) No. 1771 of 2021)**, wherein the Hon'ble Supreme Court has observed that compliance or non-compliance of Section 42 is a matter of trial, this court is not inclined to grant any bail to the accused-applicant at this stage. Accordingly, the instant bail application is rejected.

JUDGE

Miriam Degu
(SPA)