GAHC010220862026

2026:GAU-AS:15738

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

Case No. : AB/2484/2026

ASHRAFUL ISLAM
S/O BADRUL ISLAM
R/O VILL. UDMARI P.S. P.O.- JURIA DISTRICT-NAGAON ASSAM PIN 782140

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE LEARNED P GOVT. OF ASSAM

Advocate for the Petitioner : DARAK ULLAH, DEBAKSHI BORA,MS A HUSSAIN,SABRISH AHMED

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 14.10.2026

Heard Ms. A. Hussain, learned counsel for the applicant. Also heard Mr. B. Sarma, learned Additional Public Prosecutor for the State respondent.

2. Apprehending arrest in connection with NDPS Case No. 18/2026, under Sections 21(c)/29(1) of the NDPS Act, arising out of Harangajao P.S. Case No.

7/2026, this application under Section 482, BNSS is preferred by applicant, namely, Ashraful Islam, for grant of pre-arrest bail.

3. It is to be noted here that the aforementioned case has been registered on the basis of an FIR lodged by Dy.S.P. Bitu Basihya, Dima Hasao on 08.03.2026.

3.1. The essence of allegation in the FIR dated 08.03.2026, is that on that day, at about 9:55 a.m., in connection with Dittokcherra Outpost G.D. Entry No. 100, dated 08.03.2026, one Mehbub Alom Mazumder was apprehended with one black coloured Scorpio N vehicle, bearing registration No. AS-01-GQ-3707, and 149 numbers of soap cases containing suspected brown sugar, weighing 1722.47 grams, were seized, which were concealed inside the rear panel of the said vehicle.

4. Ms. Hussain, learned counsel for the applicant submits that after completion of investigation, the I.O. has laid charge-sheet against the present applicant, along with some co-accused, to stand trial, under Sections 21(c)/29(1) of the NDPS Act, and vide order dated 03.09.2026, the learned trial Court had issued Non-Bailable Warrant of Arrest (NBWA) against the present applicant. Ms. Hussain also submits that though first notice and Bailable Warrant of Arrest ought to have been issued against the applicant before issuing NBWA, the learned trial Court has not considered the same and directly issued NBWA against him, and that the applicant is ready to face the trial and will appear before the learned trial Court on each and every date, and therefore, it is contended to allow the application.

5. Per contra, Mr. Sarma, learned Additional Public Prosecutor has vehemently opposed the application. He submits that the I.O, having found prima facie materials against the applicant, submitted charge-sheet, bearing No.

21/2026, dated 30.08.2026, and that the applicant has been absconding, and therefore, he has contended to dismiss the application.

6. Having heard the submissions of learned Advocates of both sides, this Court has carefully gone through the application and the documents placed on record and also perused the scanned copy of the record received from the learned trial Court.

7. It appears that the I.O. had completed the investigation and submitted charge-sheet, bearing No. 21/2026, dated 30.08.2026, showing the applicant as an absconder, and vide order dated 03.09.2026, the learned trial Court had issued NBWA against the applicant directly, although issuance of NBWA against an accused directly without first issuing notice and Bailable Warrant of Arrest and without recording satisfaction that the aforesaid steps would fail to secure attendance of the accused, is deprecated by Hon'ble Supreme Court in the case of **Inder Mohan Goswami & Another vs State Of Uttaranchal & Others**, reported in **(2007) 12 SCC 1**.

8. Since charge-sheet has been submitted against the present applicant, this Court is inclined to dispose of this application by directing the applicant to appear before the learned trial Court on or before 02.11.2026, and to apply for regular bail, and in the event of filing such an application, the learned trial Court shall consider the same, in accordance with law.

9. It is further provided that in the event of arrest of the applicant in connection with NDPS Case No. 18/2026, under Sections 21(c)/29(1) of the NDPS Act, arising out of Harangajao P.S. Case No. 7/2026, in the interim, he shall be released on pre-arrest bail on his executing a bond of Rs. 50,000/- with one surety of like amount to the satisfaction of the arresting authority till

02.11.2026. The above privilege is, however, subject to the following conditions:

(i) The applicant shall appear before the learned trial Court on or before 02.11.2026;

(ii) 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 him from disclosing such facts to the Court or to any police officer; and

(iii) The applicant shall not leave the jurisdiction of the learned Special Judge, Dima Hasao, Haflong without prior permission.

10. In terms of above, this application stands disposed of.

JUDGE

Comparing Assistant