GAHC030001102026

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

Case No. : Bail Appln./6/2026

Sh. Jamminlal Touthang and Anr.
S/o Seikhohao Touthang, Tuibung, Churachandpur District, Manipur

2: Ngamgouthang
S/o Seikhohao Touthang
Tuibung
Churachandpur District
Manipu

VERSUS

The State of Mizoram
Aizawl

Advocate for the Petitioner : Mr. Monojit Biswas

Advocate for the Respondent : P.P./Addl.PP, Mizoram

BEFORE
HON'BLE MR. JUSTICE PRANJAL DAS

::O R D E R::

05.03.2026

1. Heard Mr. M. Biswas, learned counsel for the petitioners. Also heard Ms. Vanneihsiami, learned Additional Public Prosecutor for the State, Mizoram.

2. This application under Section 483 of BNSS, 2023 has been filed by the petitioners, namely, **Jamminlal Touthang and Ngamgouthang,** who stated to be in under trial detention since 21.11.2025 in connection with **Saitual P.S. Case No. 92/2025** under Section 21(c)/26 & 29 of NDPS Act.

3. The gist of the allegations in the FIR dated 21-11-2025 is about recovery of 1126.97 grams of suspected heroin/brown sugar, along with other materials from the vehicle in which the accused persons were travelling.

4. Mr. Biswas, learned counsel submits that his primary contention is that notice under section 47 BNSS is not adequate and that notice under 48 BNSS apart from being inadequate was also rendered in Mizolanguage though the petitioners were Kuki and were not well-versed in Mizo language. Another contention is that the defence denies the signature purportedly of the family member of the arrested persons appearing on the notice under 48 BNSS.

5. On the other hand, learned Additional Public Prosecutor for the State,submits that there have been substantial compliance with the notices given at the time of arrest and the case is at the stage of investigation and the granting of bail at this stage would not be in the interest of investigation.

6. By now, it is well said that if there is violation of the mandate of the

notices at the time of arrest, the arrest would stand vitiated and continued detention untenable and in such a situation, bail has to be considered and the aspect of merit would in a way become secondary.

7. In view of the contention of the petitioners' side, first that aspect has to be seen. The notice under section 47 BNSS annexed with the petition reveals that it is stated as follows –

> *You are hereby arrested for alleged commission under section 21(c)/25/29 of NDPS Act without warrant on (date) 21-11-2025 at (time) 1.30am in connection with STL-PS C/No. 92 dt. 21.11.2025. You are hereby informed that the alleged offence* committed *by you is non-bailable and you have a right to engage the lawyer of your choice.*

8. The notice under section 48 BNSS is in Mizo language and it briefly states about the son of the person informed, being arrested in a case which is non-bailable.

9. Clearly, besides the language issue, the aforesaid notices are not in sufficient detail as required by the governing law and would not fulfill the mandate of Article 22(1) of the Constitution of India.

10. In view of the same, the continued under trial detention of the petitioners are untenable and they are required to be granted bail, despite the serious nature of the alleged offences and the fact that investigation is going on.

11. Accordingly, in the facts and circumstances, the accused persons are hereby allowed to go on bail of Rs.75,000/- (Rupees Seventy Five Thousand Only) each with one suitable surety each of the like amount to the satisfaction of the learned concerned trial court. Further, the following conditions are imposed :-

(I) They shall not abscond;

(ii) They shall not misuse their liberty to indulge in any illegal activities, including any activities of peddling narcotic drugs;

(iii) They shall not hamper or tamper with evidence in any manner; and

(iv) They shall not intimidate or try to influence any witnesses.

12. In case of violation of any or more of the bail conditions, the prosecution would be at liberty to move an appropriate application before the learned Special Court or this Court for cancellation of the bail.

13. The instant bail petition stands **allowed** and disposed of on the aforesaid terms.

JUDGE

Comparing Assistant