GAHC030003472026

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

Case No. : Bail Appln./39/2026

Sh. Ngurchhingpuia
S/o Vanlalliana, R/o Kanan Veng, Champhai, Mizoram

VERSUS

The State of Mizoram and Anr.
R/b the Secretary to the Government of Mizoram, Home Department, Aizawl

2:ASI Lalthabuang

Advocate for the Petitioner : Mr. Lalrokunga Pautu

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

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA
ORDER

Date : 24.06.2026

1. Heard Mr. Lalrokunga Pautu, learned counsel for the petitioner. Also heard Ms. Linda L. Fambwal, learned Public Prosecutor, appearing for the State respondents.

2. This application under Section 483 of BNSS, 2023 has been filed by the petitioner, *Shri Ngurchhingpuia*, who has been detained behind the bars since 19.02.2023 in connection with Criminal Trial (NDPS) No. 298/2023.

3. The facts relevant for consideration of the instant bail application, in brief, are that an FIR was lodged by one Lalthabuanga, ASI before the Officer-in-charge of Lunglei Police Station, *inter alia*, alleging that on receipt of an information through reliable sources, the first informant and his team recovered suspected heroine weighing above 3.543 Kgs. at Venglai Lunglei, which was concealed inside the handle of floor mops from the possession of the present petitioner and three others.

4. On receipt of the said FIR, Lunglei Police Station Case No. 30/2023 was registered and investigation was initiated. Ultimately, on completion of the investigation, charge-sheet was laid against the present petitioner and other co-accused under Sections 21(c)/29 of the NDPS Act, 1985.

5. The learned counsel for the petitioner has submitted that the petitioner is an innocent person and he was not aware about the fact that the parcel which is carried in the vehicle were containing prohibited contraband. He submits that the statement of the accused persons recorded by the Investigating Agency reveals that the contraband was recovered from the main accused, Lalhruaitluanga, (accused No. 1). However, all other persons apart from the present petitioner were granted bail by the trial court.

6. The learned counsel for the petitioner has further submitted that the grounds of arrest were not communicated, in writing, to the relatives/friends/nominated persons of the petitioner as required under Article 22 of the Constitution of India. As such, the fundamental right guaranteed to the petitioner has been violated and on that ground he submits that the petitioner is entitled to get bail.

7. He further submits that in the instant case, there has also been violation of the mandatory provisions of the procedural requirement contained in Section 52 A of NDPS Act, 1985, in as much as no application has been made to the Magistrate for certifying the correctness of the inventory prepared after the seizure of the contraband as well as for allowing the samples of the seized contraband to be drawn and to be certified by the Magistrate. The learned counsel for the petitioner further submits that during the period of detention of the present petitioner, he was granted interim bail on three occasions for a total period of six months on medical grounds.

8. On the other hand, the learned Public Prosecutor has submitted that since the contraband seized in this case is huge quantity of contraband which is commercial in nature, the embargo of Section 37 of the NDPS Act, 1985 is applicable to this case. She further submits that the arrest of the petitioner in the instant case was made prior to the delivery of judgment in the case of "***Vihaan Kumar Vs. State of Haryana***" reported in "***(2025) 5 SCC 799***". Hence, the requirement of furnishing of grounds of arrest, in writing, is not applicable in this case.

9. She further submits that the Apex Court in the case of "***Pankaj Bansal Vs. Union of India***" reported in "***(2024) 7 SCC 576***" has held that the grounds of arrest are required to be communicated in writing "*henceforth*". She further submits that since the decision of the judgment in the case of "***Pankaj Bansal Vs. Union of India***" (supra) was delivered on 03.10.2023, in any arrest which has been made prior to the said date, the requirement of furnishing grounds of arrest may not be there.

10. She submits that a Division Bench of this Court has held so in the case

of "***Sri Binanda Dahotiya @ Swadesh Asom @ Sri Binanda and others Vs. National Investigating Agency***" [Criminal Appeal No. 67/2026, dated 21.04.2026]. She, therefore, submits that the application filed by the petitioner is liable to be dismissed.

11. I have considered the submissions made by the learned counsel for both sides and have gone through the materials available on record. I have also gone through the rulings cited by learned counsel for both sides in support of their respective submissions.

12. In the instant case, main ground on which the petitioner is seeking his bail is non-furnishing to him the grounds of arrest in writing at the time of his arrest. The Division Bench of this Court has held in the case of "***Sri Binanda Dahotiya @ Swadesh Asom @ Sri Binanda and others Vs. National Investigating Agency***" is as follows:

> "*10. In the case of Pankaj Bansal (Supra), the Supreme Court held that grounds of arrest must be communicated in writing to the accused. However, the Supreme Court in the above case had also clarified that the said requirement would be applicable "henceforth", i.e. only from the date of the decision made in the case of* ***Pankaj Bansal*** *(Supra). As the appellants had been arrested on 07/06/2019, i.e. prior to the decision of the Supreme Court in* ***Pankaj Bansal*** *(Supra),* ***Vihan Kumar****(Supra) and* ***Prabir Purkayastha Vs. State (NCT of Delhi)*** *reported in* ***(2024) 8 SCC 254****, the verbal communication of the grounds of arrest to the appellants at the time of their arrest in the year 2019, amounts to substantial compliance with Article 22(1) of the Constitution and as such, the non-furnishing of the grounds of arrest in writing in 2019, cannot be a ground for granting bail to the appellants."*

13. In the instant case, the petitioner was actually arrested on 19.02.2023 i.e., much before the judgment of the Apex Court in the case of "***Pankaj Bansal Vs. Union of India***" (supra) was delivered (i.e., 03.10.2023). Hence, verbal communication of the grounds of arrest to the petitioner at the time of his arrest on 19.02.2023 amounts to substantial compliance of Article 22(1) of the

Constitution of India and in view of the law clarified by the Apex Court as well as by the Division Bench of this Court in the aforesaid judgment, which is binding on this Court. The petitioner cannot take plea of violation of his fundamental right under Article 22(1) of the Constitution of India under the aforesaid circumstances. The petitioner has not been able to overcome the embargo of Section 37 of the NDPS Act in the instant case.

14. As such, the prayer for bail is rejected.

JUDGE

Comparing Assistant