

GAHC010001462026



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

Case No. : Bail Appln./88/2026

SRI TANKA PRASAD NEWAR
S/O- LATE DEB NARAYAN NEWAR.
R/O- NO.2 TOKOWPATHER, P.S.- PENGAREE, DIST.- TINSUKIA, ASSAM.

VERSUS

THE STATE OF ASSAM AND ANR
REP. BY THE PP, ASSAM

2:SMT. RUBI DIHINGIA
W/O- SRI KUKHA DIHINGIA.
R/O- BRAHMAJAN NATUN GAON
P.S.- PENGAREE
DIST.- TINSUKIA.ASSAM

BEFORE

HON'BLE MR. JUSTICE RAJESH MAZUMDAR

Advocate for the petitioner(s): Mr. A.K. Gupta,

Advocate for the respondent(s): Mr. R.J. Baruah, APP, Assam.
Ms. S. Khataniar, Amicus Curiae.

Date on which judgment was reserved : **18.03.2026**

Date of pronouncement of judgment : **20.03.2026**

Whether the pronouncement is of the : **NA**

operative part of the judgment?

Whether the full judgment has been : **Yes**

pronounced?

JUDGMENT AND ORDER (ORAL)

Heard Mr. AK Gupta, learned counsel appearing for the petitioner. Also heard Ms. S. Khataniar, learned Amicus Curiae and Mr. R.J. Baruah, learned APP for the State.

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 Pengaree P.S. Case No.21/2025, registered under Sections 64(2)(f)/62 of the BNS, 2023, read with Section 10 of the POCSO Act.

3. The learned counsel for the petitioner has submitted that the FIR had been lodged on 08.08.2025 and the petitioner was taken into custody on the same day. The charge-sheet submitted in the case is under Sections 64(2)(f)/62 of the BNS, 2023, read with Section 10 of the POCSO Act. The learned counsel for the petitioner has submitted that initially, while registering the FIR, the provisions of Section 68, which carries a punishment of not less than 5 years but which may extend to 10 years and Section 62 of the BNS, which carries a punishment of half of the longest term of imprisonment under Section 68 and Section 8 of the POCSO Act, which carries a punishment of not less than 3 years but may extend to 5 years, was invoked. The learned counsel for the petitioner submits that since the FIR had been instituted on the basis of allegations of attempting to commit offences under Section 68 of the BNS and Section 8 of the

POCSO, the maximum punishment to which the petitioner could be held to be liable, in case he is found guilty, would be less than 10 years since for attempting to commit offence, the punishment has to be half of what is provided for committing the offence itself.

4. Accordingly, the learned counsel for the petitioner has submitted that since the maximum punishment which could be imposed upon the petitioner, in case he was convicted, is less than 10 years, the time frame after which the petitioner could pray for default bail, in case the charge-sheet is not submitted, would be 60 days. The learned counsel for the petitioner has further submitted that the period of 60 days in custody had expired on 07.10.2025 and it is a matter of record that the charge-sheet has been submitted on 29.10.2025. Accordingly, the learned counsel for the petitioner submits that the petitioner would have been entitled to default bail on 08.10.2025.

5. The learned counsel for the petitioner has submitted that an application was moved on 09.12.2025 before the learned Trial Court, praying for grant of bail on the ground that the charge-sheet had not been submitted within the mandatory 60 days period, however, the same was dismissed by the learned Trial Court by the order dated 09.12.2025. The learned counsel for the petitioner has therefore prayed before this Court to consider the circumstances involved and has prayed that this Court would grant bail to the petitioner since the charge sheet had not been submitted within a period of 60 days from the date of detention of the petitioner on the ground that the detention of the petitioner on and from 08.10.2025 has to be declared to be illegal.

6. The learned counsel for the petitioner has submitted that the petitioner would participate in the trial and cooperate.

7. The learned APP has submitted that there is no fault in the order dated 09.12.2025 passed by the learned Trial Court since it has held that the provisions of law invoked against the petitioner being those of Sections 64(2)(f)/62 of the BNS, the minimum sentence being not less than 10 years, the period available for submitting charge-sheet would be 90 days and therefore since the charge-sheet has been submitted within a period of 90 days from the date of the arrest, the petitioner is not entitled to the relief prayed for.

8. This Court has gone through the records received from the Trial Court and also the submissions made by the learned counsels. This Court notices that since the allegations against the petitioner is that he had attempted to commit certain offences, the maximum punishment that can be imposed upon him is half of the longest term of imprisonment for actual commission of the offence.

9. In such view of the matter, even if it is taken that the maximum punishment for the commission of the offence under Section 64(2)(f)/62 of the BNS, 2023, would be not less than 10 years, and even if the commission of an attempt for such offence is made out against the petitioner, he would be liable to be imposed a punishment of half of the aforesaid punishment, which would be not be more than 10 years.

10. In such circumstances, this Court is of the view that the charge-sheet was required to be filed in the present case within 60 days, and admittedly it has not

been done. In the above view of the matter, this Court is also of the opinion that the detention of the petitioner after 07.10.2025 was illegal.

11. Accordingly, this Court finds the petitioner to be entitled for the privilege of being granted bail. It is therefore directed that the petitioner be released on bail in connection with POCSO Case No.67(M)/2025 pending in the Court of learned Additional Sessions Judge cum Special Judge (POCSO), Tinsukia on furnishing a bond of Rs. 30,000/- with two sureties of the like amount to the satisfaction of the learned Trial Court. The learned Trial Court shall be entitled to impose such conditions upon the petitioner to ensure his participation in the trial proceedings as may be deemed necessary. It is also further provided that during the period of investigation, the petitioner shall not interact or communicate with the alleged victim or other witnesses so as to affect a fair trial.

12. This Bail Application is disposed of.

JUDGE

Comparing Assistant