

GAHC010167882024



2026:GAU-AS:3768

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

Case No. : Crl.A./261/2024

NGAMSEI HAOKIP AND ANR
S/O. TONGLUN HAOKIP, R/O. VILL. SHAMPHEI, P.S. CHAKPIKARANG, DIST.
CHANDEL, IMPHAL, MANIPUR.

2: LETKHOLAL
S/O. THANGNGAM
R/O. VILL. KNIBANGPHAI
P.S. CHURACHANDPUR
DIST. CHURACHANDPUR
IMPHAL
MANIPUR

VERSUS

THE STATE OF ASSAM
REP. BY THE STATE OF ASSAM.

Advocate for the Petitioner : MR SARFRAZ NAWAZ, SAMIM RAHMAN, MR S A
BARBHUYAN, MR. SURAJIT DAS, A W AMAN

Advocate for the Respondent : MR. K K PARASAR, ADDL. PP, ASSAM,

:: BEFORE ::

(HON'BLE MR. JUSTICE PARTHIVJYOTI SAIKIA)

Advocate(s) for the Appellants	:	Mr. S. Nawaz, Advocate.
Advocate(s) for the Respondent	:	Mr. K.K. Parasar, Addl. P.P., Assam.

Date on which judgment is reserved : 05.03.2026.

Date of pronouncement of judgment : 16.03.2026.

Whether the pronouncement is of the operative part of the judgment? : YES.

Whether the full judgment has been pronounced? : YES.

JUDGMENT AND ORDER (CAV)

Heard Mr. S. Nawaz, learned counsel appearing for the appellants. Also heard Mr. K.K. Parasar, learned Addl. Public Prosecutor, Assam.

2. This is an appeal under Section 415(2) of the BNSS, 2023 against the judgment and order dated 25.07.2024 passed by the learned Special Judge (NDPS), Karbi Anglong in NDPS Case No.93/2021.

3. On 01.09.2021, police got information that contraband narcotic drugs would be transported from Manipur in a Bolero vehicle. Accordingly, a police team led by S.I. Monujjal Gogoi had put up a check point on the National Highway No.36. A Bolero vehicle bearing Registration No.MN-01S-1689 was stopped, whereupon, 646.86 grams of heroin was recovered from the vehicle. Ngamsei Haokip was the driver of the vehicle while Letkholal was the co-driver. The narcotic drugs were kept concealed in 50 soap boxes within the backlight assembly.

4. On conclusion of the trial, the appellants were convicted under Section 21(c) of the NDPS Act read with Section 29 of the said Act.

5. Both the appellants were sentenced to undergo 10 years of rigorous

imprisonment and to pay a fine of ₹1 lakh.

6. Aggrieved by the aforesaid judgment, the present appeal has been filed.

7. Mr. Nawaz has submitted that the seizure witnesses namely, PW-1 Boloji Debnath and PW-2 Pranay Dey could not identify the appellants nor they could state from whose possession the contraband drugs were seized.

8. I have considered the submissions made by the learned counsel of both sides. I have also gone through the evidence available in the record.

9. There is no dispute that the narcotic drugs recovered from the appellants was heroin.

10. The seizure witness Boloji Debnath (PW-1) has stated in his evidence that at the relevant time of occurrence, he was present in his shop near Lahorijan P.P. He saw police personnel stopping a Bolero vehicle coming from Manipur side. He saw the police personnel recovering 50 soap cases from inside the backlight assembly of the vehicle. The second seizure witness Pranay Dey (PW-2) also spoke in the similar manner as of Boloji Debnath. He also stated that the seizure list was prepared at Lahorijan Police Post, which is adjacent to the check post.

11. The third prosecution witness is police constable Dimbeswar Bora (PW-3). He has stated in his evidence that he along with S.I. Monujjal Gogoi had stopped the Bolero vehicle coming from Manipur side and the present appellants were the occupants of the said Bolero vehicle.

12. PW-4 is also a police constable. His evidence is similar to that of Dimbeswar Bora.

13. Both the PW-3 & PW-4 have stated in their cross-examination, that nothing was recovered from the body of the appellants.

14. PW-5 is Tensing Teran. He is a Home Guard. He was with the police team, which stopped the Bolero vehicle coming from Manipur side. He witnessed the seizure of the

narcotic drugs.

15. The 6th prosecution witness Bipul Bora (PW-6) is also a police constable. He was a member of the police team, which stopped the Bolero vehicle coming from Manipur side and saw the seizure of narcotic drugs.

16. PW-7 is S.I. Monujjal Gogoi. He had seized the narcotic drugs recovered from the Bolero vehicle.

17. The PW-8 is S.I. Lutfur Rahman and PW-9 is Inspector Bitupan Chutia. Both are Investigating Officers.

18. From the evidence on record, it is clear that no narcotic drugs were recovered from personal possession of the appellants. The narcotic drugs which was recovered was kept concealed behind the backlight assembly of the vehicle. Now, the question arises if the narcotic drugs were kept concealed inside the backlight assembly of the vehicle, can the appellants be held guilty for knowingly carrying those narcotic drugs while driving the vehicle?

19. There can be a situation where somebody else had concealed the narcotic drugs inside the backlight assembly of the vehicle and without disclosing that fact simply directed the appellants to drive the vehicle from one place to another.

20. In this case, there is no dispute that narcotic drugs was recovered from the backlight assembly of the vehicle and the appellants were driving the vehicle. This Court finds that the link between recovery of narcotic drugs and the act of the appellants is too weak. There is a serious doubt hovers over the veracity of the prosecution case against the appellants and the benefit of doubt must be given to the appellants.

21. Under the said circumstances, the appeal is allowed. The benefit of doubt is given to the appellants.

22. Accordingly, the judgment and order dated 25.07.2024 passed by the learned

Special Judge, NDPS, Karbi Anglong in NDPS Case No.93/2021, is set aside. The appellants are acquitted from this case. They shall be set at liberty forthwith.

Send back the T.C.R.

JUDGE

Comparing Assistant