

GAHC010043842026



2026:GAU-AS:6082

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

**Case No. : Bail Appln./622/2026**

SOMIR UDDIN  
SON OF LATE ABDUL SAHID, RESIDENT OF VILLAGE KATANALA PS  
RAMKRISHNA NAGAR, DIST SRIBHUMI, ASSAM

VERSUS

THE STATE OF ASSAM AND ORS  
REP BY PP ASSAM

**Advocate for the Petitioner** : MR. M AHMED,

**Advocate for the Respondent** : PP, ASSAM,

**:::BEFORE:::**

**HON'BLE MR. JUSTICE SANJEEV KUMAR SHARMA**

Advocate for the petitioner	:	Mr. M. Ahmed.
Advocate for the respondent	:	Mr.R. J. Baruah.
Date on which judgment is reserved	:	<b>06.04.2026</b>
Date of pronouncement of judgment	:	<b>05.05.2026</b>
Whether the pronouncement is of the operative part of the judgment ?	:	N/A
Whether the full judgment has been pronounced?	:	N/A

**JUDGMENT & ORDER (CAV)**

**1.** Heard Mr. M. Ahmed, learned counsel for the petitioner. Also heard Mr. R. J. Baruah, learned Addl. PP for the State of Assam.

**2.** This is an application filed under Section 483 of BNSS, 2023, praying for bail to the petitioner, who was arrested on 12.06.2025, in connection with the Ratabri P.S Case No. 99/2025 registered under Section 22(c)/25/29 of the NDPS Act, 1985.

**3.** The brief facts of the case is that on 12.06.2025 the informant namely, Danswring Basumatary, Sub-Inspector of Police of Ratabari Police Station, has lodged a written F.I.R. before the Officer-In-Charge of the Ratabari Police Station, alleging inter alia that on the basis of the telephonic information received from the Additional Superintendent of Police (HQ), Sribhumi, about the transportation of large quantity of suspected narcotic substances by one vehicle bearing Registration No. AS-11EC-5747, the informant had conducted a Naka checking in front of Vetarbond AD Camp.

Accordingly, at around 2.30 A.M. the vehicle was intercepted and after conducting search, suspected narcotic substances was recovered there from. On receipt the said F.I.R. dated 12.06.2025, the police of Ratabari Police Station has registered the same as Ratabari Police Station Case No. 99/2025 under sections

22(c)/25/29 of the Narcotic Drugs and Psychotropic Substances Act, 1985.

**4.** After registering the case vide Ratabari Police Station Case No. 99/2025, the police of Ratabari Police Station has investigated the case and arrested amongst others, the petitioner in connection with the instant case. Thereafter, on 12.06.2025, the petitioner was forwarded before the Court of learned Chief Judicial Magistrate, Sribhumi, Assam. The petitioner was given in one day police custody and on completion of the police custody, the petitioner was forwarded again to the Court of learned Chief Judicial Magistrate, Sribhumi, Assam, from where he was sent to judicial custody and since then the petitioner is languishing in judicial custody.

**5.** The Charge-sheet has already been submitted on 27.11.25 by the IO under section 22(c)/25/29 of the NDPS Act, and accordingly, NDPS special case No. 63/25 was registered, and the matter is at the stage of charge hearing.

**6.** Apart from claiming innocence, the learned counsel has assailed the arrest of the present petitioner on the ground of violation of Section 47 and 48 BNSS, contrary to the decision of the Hon'ble Apex Court in ***Vihaan Kumar Vs. State of Haryana*** reported in ***2025 SCC Online SC 269*** and ***Mihir Rajesh Shah Vs. State of Maharashtra*** reported in ***2025 INSC 1288***.

**7.** The learned counsel has drawn the attention of the court to the notice

under section 47 issued to the present petitioner, which is in the English language. It is contended that the petitioner does not understand the English language and has only learned to sign his name in the English language and that he is a school dropout who had studied up to fourth standard in Bengali medium.

**8.** Firstly, there cannot be any universal proposition that a person who has studied up to the fourth standard in a vernacular medium school in Assam cannot understand the English language, inasmuch as English is very much a part of the curriculum in vernacular medium schools all over Assam, a fact of which judicial notice can be taken.

**9.** Moreover, although, the petitioner has signed the notice in the Bengali language, the contents thereof have been explained to the accused in the Bengali language.

**10.** The next contention is that the notice under section 48, though served on the wife of the petitioner, namely, **Amrita Begum**, is in the English language, which she does not understand as she is illiterate and, therefore, she put her thumb impression on the said notice.

**11.** A perusal of the aforesaid notice would show that the IO has noted that the grounds of arrest have been explained to the notice in the Bengali language.

Further, there is no averment in the instant bail application that the notice, Amrita Begum, is not conversant with the English language, and a perusal of the affidavit supporting the instant bail application reveals that it is in the English language, wherein it has been stated that the deponent therein understood the contents of the accompanying bail application, which are true to her knowledge and information derived from records. There is no statement in the said affidavit that, since she is not conversant with the English language, the contents of the affidavit have been duly explained to her in the Bengali language.

Therefore, if it is to be believed that the deponent therein and notice of the notice under section 48 BNSS does not understand the English language, the bail application itself would be rendered non-maintainable, being unsupported by a valid affidavit.

**12.** In ***Vihan Kumar (Supra)***, it has been held in Para 21(b) by the Apex Court as follows:

*‘The information of the grounds of arrest must be provided to the arrested person in such a manner that sufficient knowledge of the basic facts constituting the grounds is imparted and communicated to the arrested person effectively in the language which he understands. The mode and method of communication must be such that the object of the constitutional safeguard is achieved.’*

It has been further held in ***Vihaan Kumar (supra)*** that the requirement of

communicating the grounds of arrest in writing is not only to the arrested person, but also to their friends, relatives, or such other relatives etc., so as to make the mandate of Article 22(1) of the Constitution meaningful and effective, failing which, such arrest may be rendered illegal.

**13.** It may be noticed that the aforesaid decision does not require the police to write the notice under Section 48 in a language the notice understands, but a written notice is necessary. So long as the grounds of arrest are provided in a manner that sufficient knowledge of the basic facts constituting the grounds of arrest is imparted and communicated effectively in a language which the notice understands, the same would be sufficient compliance with the mandate of the law.

**14.** In the instant case, the I.O has clearly stated in the notice that the grounds of arrest have been explained in the Bengali language to the notice, which has not been rebutted in the present bail application. Further, if the notice is illiterate, as contended by learned counsel for the petitioner, the language in which the notice u/s 48 BNSS is written is irrelevant.

**15.** Therefore, I am of the view that there has been substantial and sufficient compliance with Section 48, as necessitated in the light of the decision in

***Vihaan Kumar (supra).***

**16.** Furthermore, the decision in ***Mihir Rajesh Shah***, which was delivered on 06.11.2025, appears to be prospective in operation inasmuch as in paragraph 58 of the said Judgment, it has been held as follows:-

*‘The ends of fairness and legal discipline therefore demand that this procedure as affirmed above shall govern arrests **henceforth.**’*

Since the accused/petitioner was arrested on 12.06.2025, the benefit of the said decision would not be extended to the present petitioner.

**17.** The Division Bench of the Hon'ble Delhi High Court has also held in a recent decision in ***Karan Singh Vs. State NCT of Delhi*** reported in **2026 DHC 570 DB** that the decision in ***Mihir Rajesh Shah (supra)*** is prospective in operation.

**18.** In view of what has been discussed above, I do not find force in the submissions of the learned counsel for the petitioner.

**19.** The contraband, which amounts to a commercial quantity, was prima facie recovered from the possession of the petitioner. Therefore, the provisions of Section 37 of the NDPS Act, would be attracted.

**20.** On perusal of the material on record, I find no justifiable reason to entertain the belief that the petitioner may not be guilty of the alleged offense of possession and transportation of a commercial quantity of prohibited drugs.

**21.** In view of the above discussion, the prayer for bail stands rejected, and the petition stands dismissed.

**JUDGE**

**Comparing Assistant**