GAHC040017382026 2026:GAU-AP:1115

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

Case No. : BA/99/2026

Khongam Toham
Son of Shri Jasa Toham, permanent resident of Niausa Village, PO and PS Longding, Longding District, Arunachal Pradesh 792131

VERSUS

The State of AP
through the PP of AP

Advocate for the Petitioner : Jyoti Zongluju, Kirpi Nyorak,Yanum Singhi,Phunai Wangpan

Advocate for the Respondent : P P of AP,

BEFORE
HONOURABLE MRS. JUSTICE YARENJUNGLA LONGKUMER

JUDGMENT

Date : 09-11-2026

By filing the instant application under section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023, 2023, the petitioner who is the brother of the accused person Shri Panse Toham has prayed for granting bail to the accused person in connection with Chimpu PS Case No.76/2026 under section 21(b), 27 A of the Narcotic Drugs and

Psychotropic Substances Act, 1985 (ND PS Act, 1985 Act).

2. Heard the learned counsel for the petitioner Ms. J. Zongluju. Also heard the learned Addl.P.P. Mr. T. Ete for the State respondent.

3. The case of the petitioner herein is that the accused was arrested on 10.08.2026 in connection with the above mentioned case and he has been in custody since then. It is the case of the petitioner that he had earlier approached the Court of the learned Special Judge Narcotic Drugs and Psychotropic Substances Act, 1985 seeking regular bail in connection with the above mentioned case and by order dated 23.09.2026, the said application was rejected.

4. The learned counsel for the petitioner submits that section 27 A of the NDPS Act is not attracted in the instant case as prosecution has to identify the material to establish the accused alleged participation in financing illicit traffic or harbouring an offender. However, in the instant case there is no materials whatsoever to connect the accused with any financial dealings with any other persons.

5. It is also stated that section 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 Act has also been invoked wrongly against the accused person as the records clearly shows that the co-accused in the instant case had no knowledge regarding trafficking and therefore the allegation of conspiracy and abatement does not survive against the instant accused person.

6. It is the submission of the learned counsel for the petitioner that the accused is a permanent resident of Arunachal Pradesh and has a fixed place of residence and he undertakes to appear before the investigating agency

and the competent Court as and when directed. He also undertakes to comply with any conditions which this Court may imposed if bail is granted. It is further submitted that the investigating process is already at the final stage and all the search and seizure procedure has been completed and also the drawal of samples and the statements of the accused have also been recorded. Further, it is submitted that it is only the FSL report which is awaited in the instant case.

7. In view of the above submission, the learned counsel for the petitioner prays that the instant application may be allowed and bail may be granted to the accused person.

8. Per contra, the learned P.P Mr. T. Ete by producing the Case Diary has submitted that the seizure memo as well as the statement of the accused Panse Toham clearly reveals that there is prima facie case against the accused person. It is stated by the learned Addl.P.P that the accused in his 161 Cr.PC statement has revealed that at about 1900 hours on 09.08.2026 an unknown person called him and he received the call and spoke with the unknown person. During the conversation, the unknown person asked him for some drugs using code words. He accordingly told him that he had some drugs for his own consumption. Therefore he sent the co-accused Pulai Toham with a vial containing heroin and asked him to hand it over to the unknown person and meet him at the road side. After a few minutes Police arrived at the rented house and search was conducted wherein the drugs which were concealed in the bedroom, toilet and kitchen were recovered by the police. He also stated that all the drugs seized by the Police have been purchased by him from Pongchau on 04.08.2026 at a place between Bohnue and Pongchau. The learned Addl. P.P. further submits that

the accused person had brought the alleged drugs not for his own consumption but for sale of the same and the said transaction involves international connections and serious view of the same has to be taken by this Court. The learned Addl. P.P. further submits that the case is still at a stage of investigation and the FSL report is yet to be received and therefore the instant application may be rejected at this stage.

9. I have duly considered the submissions made by the learned counsel for the parties and perused the updated Case Diary.

10. The materials on record clearly shows that there is a prima facie case against the accused person for possession/trafficking of the heroine which attracts offence under section 21(b) of the NDPS Act. Upon examination of the records, this Court is further of the prima facie view that the prosecution has not been able to produce any material which would attract section 27 A and section 29 of the NDPS Act. The statute provides that in case of intermediate quantity under the NDPS Act, the mandatory period for filing of charge-sheet is 60 days. In the instant case, since the date of arrest, 90 days has lapsed. This Court has also taken note of the fact that the accused person is a permanent resident of Longding in Arunachal Pradesh. Another pertinent factor herein is that the investigation is now at the final stage and the incarceration is no longer requirement.

11. In view of the above observation, the instant application is allowed and the accused person Shri Shri Panse Toham is released on bail on the following terms and conditions:-

1. The accused person shall be released on execution of bail bond of Rs.30,000/- with two sureties of the like amount who shall be a

Government employee employed by the State of Arunachal Pradesh.

2. The accused person shall appear before the investigating agency once a week and report his attendance till the investigation is over.

3. The accused person shall not leave the jurisdiction of the concerned P.S without the permission of the I.O.

It is also made clear that the observation made are only for the purpose of this application and shall not affect the final determination of the proceedings of the case.

With the above observation and direction, the petition stands disposed of.

JUDGE

Comparing Assistant