

ORDER SHEET FOR MAGISTRATE'S RECORDS

DISTRICTS : CHIRANG

IN THE COURT OF : Sri Sumit Bhuyan, Chief Judicial Magistrate, Chirang

Case No. Bail (483) 39/2026 : OR Case No. PS/ 01 of 2026

Serial No. of Order	Date	Order	Signature
	17.07.2026	Learned counsel for the accused persons/petitioners is present today. Case diary as called for by the I.O is received today. Perused the T.C.R as well as case diary at length. Heard Learned Counsel for the accused/petitioner who submitted that the arrest memo of accused persons namely Latibul Sheikh and Alamgir Mulla had mentioned only the date but the time of arrest was not initially entered and Learned Counsel for the accused persons/petitioners provided a xerox copy of the memo of arrest but later on, at the time of production of the accused persons, the time of arrest was hand written as 2 PM. Later on, the accused persons were produced before the Learned Magistrate on 20.06.2026 at 11 PM which draws a shadow of doubt on the genuineness of the documents produced by the I/O. Learned Counsel further submitted the accused persons are innocent and were arrested merely on suspicion they would abide by	Contd.

	contd. 17.07.2026	any conditions imposed by this Court if they are enlarged on bail. Learned Add.PP, on the other hand, submitted that there are incriminating materials against the accused persons as could be seen from the case diary and hence raised objection in granting bail to the accused persons. I have heard the submissions made by Learned Counsels appearing for both sides. I have considered the materials available on record and the bail objection made by the I/O. On going through the case diary as well as the case record, it transpires that the original arrest memo has no time of arrest mentioned in it but on a scrutiny of the arrest memo annexed along with the case record, it appears that the time of arrest is mentioned as 2 PM (hand written) and the perusal of the order of the Learned Magistrate reveals that the accused persons were produced at 11 PM in her official residence on 20.06.2026, which creates doubt regarding the time and arrest of the accused. Moreover, although the offences charged against the accused under the Wild Life Protection Act is exclusively triable by the Court of Sessions but the offence u/s 51 and all its sub clauses involves punishment up to imprisonment of 7 years. In the case	Contd.
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	Contd.	of Satender Kumar Antil vs CBI [(2022) 10 SSC 51], the Hon'ble Supreme Court held that <i>'arrest is not mandatory in every cognizable offence and that Courts are duty bound to satisfy themselves regarding compliance with statutory safeguards before authorizing detention'</i>. Further in the same case decided on 15.01.2026, the Apex Court elaborated and clarified the principles governing arrest under the BNSS, 2023. The Court observed that in offences punishable with imprisonment upto 7 years, issuance of notice of appearance u/s 35(3) of BNSS is the rule and arrest is an exception. The investigating agency is ordinarily required to issue such notice and arrest should not be made in a routine or mechanical manner. Adhering to the guidelines laid down by the Hon'ble Apex Court and in a recent judgment delivered by the Hon'ble Gauhati High Court, the date and time when the accused is arrested as well as the date and the time when the accused is produced before the Court, is to be clearly reflected from the documents produced by the investigating agency and in the order passed by the Learned Trial Courts. In the instant case, as there appears to be anomalies in the arrest of the accused persons regarding the time, as could be seen from the arrest memo as well	Contd.
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	contd.	as the order of the Learned Magistrate dated 20.06.2026, non issuance of notice upon the accused persons u/s 35(3) of BNSS, in which case the whole procedure of arrest becomes vitiated. Hence, considering all the above, this Court allows the accused persons namely Latibul Sheikh and Alamgir Mulla to be enlarged on bail of Rs. 40,000/- each along with one local surety of the like amount to the satisfaction of the Learned Jurisdictional Magistrate subject to the following conditions that:- i. The accused persons shall appear before the I/O after every 6 (six) days in connection with the case during the mandatory period of investigation. ii. The accused persons shall hand over their documents viz, aadhar card, pan card, voter card, ration card etc to the I.O till completion of investigation and the same shall be returned by the I.O back to the accused persons after completion of the same. iii. The accused persons shall not tamper with the evidence or induce any person acquainted with the facts of the case, and iv. The accused persons shall not leave the jurisdiction of the Court without prior permission of the Court. Any violation of the above conditions imposed upon the accused by this Court	Contd.
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contd.

shall result in immediate cancellation of their bail.

Inform the I/O accordingly.

Return the case diary to the I.O in sealed cover.

Also return the TCR.

Having said so, this Misc Criminal Case No. (483)39/2026 stands accordingly disposed of.