

ORDER SHEET FOR MAGISTRATE'S RECORDS

DISTRICTS : CHIRANG

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

Case No. Bail (483) 41/2026 : OR Case No. PS/ 01 of 2026

Serial No. of Order	Date	Order	Signature
	17.07.2026	Learned counsel for the accused/petitioner 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 Mojir Uddin 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, the time of arrest was hand written as 2 PM. Later on, the accused was 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 is arrested only on the premise of being a driver of alleged ambulance and on the disclosure of the other accused persons which is very weak piece of evidence and he would abide by any	Contd.

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Court held that *'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'*. 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 regarding the time, as could be seen from the arrest memo as well as the order of the Learned Magistrate dated 20.06.2026, non issuance of notice upon the accused u/s 35(3) of BNSS, in which case the

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whole procedure of arrest becomes vitiated. Hence, considering all the above, this Court allows the accused Mojir Uddin to be enlarged on bail of Rs. 40,000/- 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 shall appear before the I/O after every 2 (two) days in connection with the case during the mandatory period of investigation.

ii. The accused shall not tamper with the evidence or induce any person acquainted with the facts of the case, and

iii. The accused 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 shall result in immediate cancellation of his 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) 41/2026 stands accordingly disposed of.

