

GAHC010002702026



2026:GAU-AS:3025

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

Case No. : AB/88/2026

RAKIBUL ISLAM
S/O WAHIDUR RAHMAN,VILLAGE -2 NO. PUBERGAON,BRPO AND PS-
MANKACHAR, DISTRICT -BRSOUTH SALMARA MANKACHAR,ASSAM. PIN
-783131

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR. M ISLAM,

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MR. JUSTICE RAJESH MAZUMDAR

ORDER

Date : 26.02.2026

Heard Mr. M Islam, learned counsel appearing for the petitioner. Also heard Mr. B. Sharma, learned Additional Public Prosecutor Assam for the State.

2. This is a bail petition under Provisions of Section 482 of the BNSS, 2023 for granting anticipatory bail to the petitioner. The crux of the matter is that the petitioner is one of the accused put up for trial in

connection with Special (N) Case No.173/2024 under Section 22(b) of the NDPS, which is pending before the learned Special Judge, South Salmara Mankachar arising out of Mankachar PS Case No. 270/2023 (GR No. 622/ 2023).

3. The learned counsel for the petitioner has submitted that during the course of the investigation in the matter, the petitioner had not been sought for by the investigating authority. Although he has been shown as an absconder in the charge sheet, it is settled position in law that the investigating authorities are not authorized to declare a person an absconder.

4. The case of the petitioner, according to the learned counsel for the petitioner is that, he was not required by the investigating authority at any point of time to appear before them and therefore he never had knowledge about the pending investigating or the police case.

5. However, a receipt of the summons, the petitioner had made his enquiries and coming to know that it is a matter of relating to NDPS Act, he had engaged the counsel to represent him before the trial Court and the orders already annexed to the anticipatory bail would show that he had appeared and sought for time for appearance of the petition. By the order dated 11.09.2025, the learned Trial Court had allowed the prayer of the petitioner herein as a last chance and required the accused persons remain present on the next date fixed without fail. The learned Addl. P.P has submitted that on his failure to appear on 05.12.2025 also, bailable warrants of arrest had been issued against the petitioner herein.

6. This anticipatory bail had been filed on 06.01.2026, after the bailable warrants of arrest had been issued against the petitioner.

7. This Court notices that the effect of the bailable warrants of arrest issued against the petitioner would be that the petitioner would have to give appropriate surety for his appearance before the learned Trial Court on the next date i.e., on 25.05.2026.

8. The bailable warrants of arrest do not authorize the detention of the petitioner to secure presence before the learned Trial Court. In such view of the matter this Court directs the petitioner to comply with the conditions of the bailable warrants of arrest and give appropriate surety of his appearance before the learned Trial Court on 25.05.2026.

9. The learned counsel for the petitioner has submitted since the matter relates to NDPS, he has been shown as an absconder during the period of investigation, there is an apprehension that the Trial Court may direct him to be taken into custody during the period of trial.

10. This Court has noticed that in, the co-accused from whom the contraband had been seized has

been allowed to remain on previous bail by the learned Trial Court during the period of trial. The co-accused was earlier granted a default bail on 30.08.2023 and even during the trial he has been allowed to remain on previous bail.

11. This Court is not convinced that the learned Trial Court would direct the petitioner to be taken into custody as a matter course. Rather it would consider the circumstances and the sureties given by the petitioner for his participation during the trial Court, before considering whether the petitioner is required to be taken into custody during the period of trial or not.

12. In such circumstances, if the petitioner appears before the learned Trial Court, after having complied with the conditions of the bailable warrants of arrest issued against him, the learned Trial Court would take into consideration the entire circumstances and the assurances etc. given by the petitioner for his participation in the trial before taking a decision regarding the requirement of taking the petitioner into custody for facing of the trial.

13. In case the Trial Court is of the opinion that the petitioner would not abstain from facing trial, it is needless to say that the Trial Court may impose such conditions upon him to ensure his participation in the trial.

15. Anticipatory bail stands disposed of.

JUDGE

Comparing Assistant