

GAHC010159142025



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

Case No. : W.P.(Crl.)/50/2025

MD FARISH
S/O LATE WAHID ALI, R/O VILL- SANGAIYAMPHAM PART-II, CHERAPUR,
P.O.- WANGJING, P.S.- THOUBAL, DIST- THOUBAL, MANIPUR, PIN-795148

VERSUS

THE UNION OF INDIA
REPRESENTED BY THE STANDING COUNSEL, NARCOTIC CONTROL
BUREAU (NCB), GUWAHATI. MINISTRY OF HOME AFFAIRS, DEPARTMENT
OF INTERNAL SECURITY, GOVERNMENT OF INDIA, NEW DELHI.

Advocate for the Petitioner : MR. N J DUTTA, MR A BASUMATARY

Advocate for the Respondent : SC, NCB,

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA
HONOURABLE MR. JUSTICE RAJESH MAZUMDAR

Date : 06-01-2026

Date on which judgment is reserved : 28.10.2025

Date of pronouncement of judgment : 06.01.2026

Whether the pronouncement is of

the operative part of the judgment? : No

**Whether the full judgment has been
Pronounced? : Yes**

JUDGMENT AND ORDER

(CAV)

(K.R. Surana, J)

Heard Mr. N.J. Dutta, learned counsel for the petitioner. Also heard Mr. S.C. Keyal, learned standing counsel for the respondents.

2) By filing this application under Article 226 of the Constitution of India, the petitioner, namely, Md. Farish, son of Late Wahid Ali, resident of village- Sangaiypham Part-II, under P.S. and District- Thoubal, Manipur, has prayed to release him in connection with NDPS Case No. 12/2025.

Prosecution case, in brief:

3) A final complaint dated 22.10.2024, was filed by the Narcotic Control Bureau, Guwahati Zonal Unit (hereinafter referred to as "NCB-GZU" for short), before the Court of District & Sessions Judge, Kamrup (Metro). The said case was registered as NDPS Case No. 140/2024, and put up before the Court of the learned Special Judge (NDPS), Guwahati, on 23.04.2024.

4) As per the complaint filed by the NCB-GZU, the case of the prosecution, in brief, is that on 28.10.2023, a secret information was received from a reliable source that the petitioner and Md. Jayad Khan, another co-accused, would be trafficking about 300-400 gram Heroin in Maruti Swift vehicle bearing registration no. AS-01-AE-8182 and they would be passing towards Barpeta from Hajo side. Accordingly, the information was reduced in writing. It is projected that after following due process and upon receipt of due

authorization, a team was constituted to conduct search and seizure. Request was made to two persons to be independent witnesses. On 28.10.2023, at about 9.30 pm., the said vehicle was seen coming from Amingaon side, was stopped by the NCB team. The vehicle was stopped and two accused persons, including the petitioner had admitted that 32 packets of Heroin were kept concealed in the car, out of which 11 packets were kept concealed in a special cavity near the co-driver seat, between co-driver seat and co-driver gate within the floor of the car; 11 packets of Heroin was concealed in a special cavity near the driver's seat between the driver's seat and driver gate within the floor of the car; 5 packets of Heroin were kept concealed in a special cavity under the co-driver's seat in the floor of the car; and 5 packets of Heroin was kept concealed in a special cavity under the driver's seat in the floor of the car.

5) It was foggy and there was less light, and a car mechanic was required for a thorough search and moreover, public had started gathering around the NCB team and occupants of the vehicle, creating concern about the safety of the intercepted persons as vehicles were moving on the Highway. Therefore, the NCB team had departed from the spot at about 9.45 pm along with the two independent witnesses and intercepted vehicle and reached the NCB Office at Guwahati at about 11.00 pm. A mechanic, named in the complaint was called and as shown by the petitioner, search of the car was initiated at about 11.15 pm. The complaint contains the description of as to how the place where Heroin was concealed was found with the help of the car mechanic and recovery and regarding the manner the seizure of 32 packets of the contraband Heroin was made from the hiding place.

6) On completion of investigation of the case, registered as NCB Crime No. 18/2023, under Sections 8(c) read with Sections 21(c) and 29 of the

Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as the "NDPS Act" for short), the NCB-GZU had submitted a complaint, before the Court of the learned Sessions Judge, Kamrup (Metro), Guwahati. The said complaint case was registered and numbered before the Court of Special Judge, NDPS, Guwahati, as NDPS Case No. 140/2024. By virtue of order dated 07.10.2024, passed by the learned Additional Sessions Judge No.2, Kamrup (Metro), Guwahati, charges were framed against three accused persons, including the petitioner under Sections 21(c) read with Section 29 of the NDPS Act, 1985. The accused pleaded not guilty and claimed to be tried.

7) The learned counsel for the petitioner has submitted that the arrest and judicial custody of the petitioner is vitiated on the following two grounds:

- a. Firstly, the vehicle was intercepted outside the territorial jurisdiction of the Court of Session Judge, Kamrup (Metro), where the charges against the petitioner were submitted.
- b. Secondly, the arrest was made without adherence to the compliance of the provisions of Article 21(1) of the Constitution of India, because while arresting the petitioner, the grounds of his arrest was not disclosed in writing to the petitioner and no information was provided to the immediate family members or friends of the petitioner, so nominated by the petitioner. In this regard, the learned counsel for the petitioner has referred to the provisions of Sections 50 and 51 of the NDPS Act and Sections 41A and 60A of the Criminal Procedure Code.

8) In support of his submissions, the learned counsel for the petitioner has cited the following cases, viz., *Vihaan Kumar v. The State of*

Haryana & Anr., 2025 (3) Supreme 363, Kasireddy Upender Reddy v. State of Andhra Pradesh, (2025) 0 Supreme(SC) 905, (iii) Pankaj Bansal v. Union of India & Ors., (2024) 7 SCC 576, (iv) Prabir Purakayastha v. State (NCT of Delhi), (2024) 8 SCC 254, (v) In the matter of: Madhu Limaye, (1969) 1 SCC 292, (vi) Vimal Kishore v. State of U.P., AIR 1956 SC 56.

Submissions of the learned standing counsel for the respondent:

9) Per contra, the learned standing counsel for the NCB has submitted that there was due compliance of the mandatory requirement of law while arresting the petitioner. Moreover, due to the reasons assigned, the conduct of search and seizure was necessitated to be done in the office of the NCB.

10) In support of his submissions, the learned standing counsel for the NCB had cited the following cases, viz., (i) *State of Karnataka v. Sri Darshan*, (2025) 0 Supreme(SC) 1201, (ii) *M/s. A.P. Electrical Corporation V. The Tehsildar & Ors.*, (2025) 0 Supreme(SC) 407, (iii) *Vihaan Kumar v. State of Haryana & Ors.*, (2025) 0 Supreme(SC) 283, (iv) *Prabir Purakayastha v. State (NCT of Delhi)*, (2024) 8 SCC 254, (v) *National Insurance Company Limited v. Pranay Sethi & Ors.*, (2017) 0 Supreme(SC) 1050, (vi) *Jitul Ali v. The Union of India*, represented by Narcotics Control Bureau, 2025 GAU-AS 7914.

Reasons and decision:

11) Considered the submissions made by the learned counsel for both sides. Also perused the writ petition and documents annexed thereto and the affidavit-in-opposition filed by the respondent. Also considered the cases cited by both sides at the Bar.

12) It may be stated at the outset that the affidavit-in-opposition

filed by the respondent is nothing but a reproduction of the parawise comments, which is not at all appreciated.

13) It may be stated at the outset that this is not an application for bail. The prayer in this writ petition under Article 226 of the Constitution of India is to issue a writ to release the petitioner.

14) In the said context, it may be stated that in paragraph 8 of the case of *Directorate of Enforcement v. Subhash Sharma, 2025 SCC Online 240*, the Supreme Court of India had held as follows:

“Once a Court, while dealing with a bail application, finds that the fundamental rights of the accused under Articles 21 and 22 of the Constitution of India have been violated while arresting the accused or after arresting him, it is the duty of the Court dealing with the bail application to release the accused on bail. The reason is that the arrest in such cases stands vitiated. It is the duty of every Court to uphold the fundamental rights guaranteed under Articles 21 and 22 of the Constitution.”

15) In paragraph 14 of the case of *Vihaan Kumar (supra)*, cited by both sides, it has been held to the effect that when a person is arrested without warrant, and the grounds of arrest are not informed to him, as soon as may be, after the arrest, it will amount to a violation of his fundamental right guaranteed under Article 21 as well and it was also held that on the failure to comply with the requirement of informing grounds of arrest, as soon as may be, after the arrest, the arrest is vitiated. Accordingly, it was also held that once the arrest is held to be vitiated, the person arrested cannot remain in custody even for a second. In paragraph 19 thereof, it has been held that Section 50 Cr.P.C. cannot have the effect of diluting the requirement of Article 22(1) of the Constitution of India.

16) The vehicle through which the petitioner and a co-accused were

trafficking contraband narcotic, i.e. Heroin, was stopped/ intercepted on 28.10.2023, at about 9.30 pm. At 9.45 pm., the vehicle and its occupants were taken to NCB Office at Guwahati and they reached the NCB Office at Guwahati at about 11.00 pm. At about 11.45 pm., the car mechanic was brought and search was initiated at about 11.15 pm. The petitioner was arrested at 5.00 am. on 29.10.2023.

17) The learned counsel for the petitioner had cited the case of *Kasireddy Upender Reddy (supra)*, to show from paragraph 14 thereof as to how in that case the grounds of arrest was prepared in the said case.

18) In paragraph 10 of the case of *Madhu Limaye (supra)*, cited by the learned counsel for the petitioner, the Supreme Court of India vide referring to Article 22(1) of the Constitution of India by referring to 6th Amendment to the Constitution of the United States of America and Article XXXIV of the Japanese Constitution of 1947 had stated that in England whenever an arrest is made without a warrant, the arrested person has a right to be informed not only that he is being arrested, but also the "reasons or grounds" for the arrest.

19) In paragraph 29 of the case of *Pankaj Bansal (supra)*, cited by the learned counsel for the petitioner, it has been observed that if the it is only if the arrested person has knowledge of facts that he/ she would be in a position to plead and prove before the Special Court that their grounds to believe that he/ she is not guilty of such offence, so as to avail the relief of bail and accordingly, it was held by the Supreme Court of India that communication of the grounds of arrest as mandated by Article 22(1) of the Constitution of India is meant to serve this higher purpose and must be given due importance. Moreover, in paragraph 35 thereof the Supreme Court of India had directed that henceforth a copy of written ground of arrest is necessary to be furnished to the

arrested person as a matter of course and without exception. The said judgment was delivered on 03.10.2023.

20) The case of *Vimal Kishore v. State of U.P., AIR 1956 All 56*, was also cited on the point that non-adherence to the provision of Clause (1) of Article 22 of the Constitution of India, vitiated the arrest of the petitioner.

21) Therefore, it is necessary that at this juncture, reference may be made to the Memorandum of Arrest in this case in hand, bearing Ref. No. 07/NCB/GZU/Heroin/18/2023 dated 29.10.2023, which had been prepared by the Intelligence Officer, NCB, Guwahati Zonal Unit, Guwahati. The contents thereof is quoted below:-

Seen
Chief Judicial Magistrate,
Kamrup (Metro) District, Guwahati
30-10-23

NCB Guwahati Crime No. 18/2023

Fax: 0361-2339375

Tel: 0361-2963253

Email: ghtzu-ncb@nic.in

VIP Road, Rupkonwar Path, Chachal
Khanapara, Guwahati-781022

Government of India
Ministry of Home Affairs
Department of Internal Security
Narcotics Control Bureau
Guwahati Zonal Unit,
Guwahati

MEMORANDUM OF ARREST

Ref. No. 07/NCB/GZU/Heroin/18/2023

In consequence of /connection with the recovery and seizure of 409 grams Heroin in connection with above referred case under Section: 43 of The Narcotic Drugs and Psychotropic Substances Act, 1985 (as amended) on 29.10.2023 at 05:00 AM at NCB Office, Rupkonwarpath, Chachal, Guwahati Assam, I do hereby arrest Md. Farish (D.O.B. 10/02/1995) S/o- Md. Wahid Ali R/o- Sangaiyumpham Part-II, Cherapur, City- Sanaiyumpham, P.O. Wangjing, P.S. Thoubal, District- Thoubal, State Manipur-795148, under Section 42 of The Narcotic Drugs and

Psychotropic Substances Act, 1985 (as amended) on 29.10.2023 at 1800 hrs at the office of Narcotics Control Bureau, Guwahati, Assam on reasonable belief/prima facie proof that the said seized contraband/articles/documents are liable to confiscation under Section: 60 of The Narcotic Drugs and Psychotropic Substances Act, 1985 (as amended) and the aforesaid Md. Farish is liable to proceedings under Section 8(c) read with u/s 21(c) and 29 of NDPS Act, 1985 (as amended) for contravention of the provisions of The Narcotic Drugs and Psychotropic Substances Act, 1985 (as amended) which have already been duly explained to him

The aforesaid arrested person is being forwarded to the competent authority within twenty four hours for his remand to judicial custody.

Given under my hand and SEAL:

*Signature with date.
Sd/- (illegible) 29/10/2023
Name & Designation.....
ANIL KUSHWAHA
Intelligence Officer
Narcotics Control Bureau
Guwahati Zonal Unit, Guwahati*

Sd/- (illegible of Md. Farish) 29/10/23

To.

*Md. Farish (D.O.B. 10/02/1995) S/o-Md. Wahid All
Rio-Sangaiyumpham Part-II, Cherapur, City-Sanaikumpham
P.O. Wangjing, P.S. Thoubal, District- Thoubal, State- Manipur-795148*

Md. Farish gave intimation of his arrest to his wife. namely Yasmin on her mobile phone 8014438084 at about 08:45 PM on 29.10.2023.

Sd/- (illegible of Md. Farish) 29/10/23

Sd/- (Illegible) 19/10/2023

*ANIL KUSHWAHA
Intelligence Officer
Narcotics Control Bureau
Guwahati Zonal Unit, Guwahati*

22) Thus, not only the Memorandum of Arrest dated 29.10.2023, was served on the petitioner within a reasonable time of the arrest of the petitioner, but on the same day, i.e. 29.10.2023, at about 8.45 am., the petitioner was allowed to intimate his wife, namely, Yasmin, over her mobile

number 8014438084, about his arrest, which is due compliance of the provisions of Section 50A Cr.P.C. Therefore, the ratio laid down in the case of *Kasireddy Upender Reddy (supra)*, *Pankaj Bansal (supra)* and *Vimal Kishore (supra)* cited by the learned counsel for the petitioner has not been found to be violated.

23) The petitioner had also been served with a notice dated 29.10.2023, under Section 50 of the Cr.P.C. The contents of the said notice is quoted below:-

NOTICE U/S 50 Cr.P.C

<i>Shri</i>	<i>:</i>	<i>Md. Farish</i>	
<i>S/o</i>	<i>:</i>	<i>Md. Wahid Ali</i>	<i>seen</i>
<i>Village</i>	<i>:</i>	<i>Sangaiyumpham Part II,</i>	<i>Chief Judicial Magistrate,</i>
<i>Post Office:</i>	<i>Wangjing</i>		<i>Kamrup (Metro) District,</i>
<i>Police Station:</i>	<i>Thoubal</i>		<i>Guwahati</i>
<i>District</i>	<i>:</i>	<i>Thoubal</i>	<i>30-10-23</i>
<i>State</i>	<i>:</i>	<i>Manipur-795148</i>	
<i>Case No.</i>	<i>:</i>	<i>NCB Guwahati Case No. 18/2023</i>	
<i>Seizure address: At NCB Office, Guwahati, Assam</i>			
<i>U/S</i>	<i>:</i>	<i>8(c) to be read with 21 (c) & 29 of NDPS Act. 1985,</i>	

You are hereby informed that you are arrested in connection with the above reference case and the case is non-bailable. So, you are forwarded to the Hon'ble Court. You may submit petition before the Hon'ble Court for your bail.

Sd/- (illegible) 29.10.23
Signature of Arrestee

Sd/- (illegible)
Signature of I.O.
ANIL KUSHWAHA
Intelligence officer
Narcotics Control Bureau
Guwahati Zonal Unit,
Guwahati

Certified to be True True/Copy
Sd/- (illegible)

Sd/- (illegible) 28/5/25

*Comparing Assistant
Office of the District & Sessions Judge
Kamrup (Metro), Guwahati*

*Chief Administrative Officer
Office of the District And
Sessions Judge
Kamrup (Metro), Guwahati*

24) Thus, there has been due compliance of the mandatory provisions regarding arrest of the petitioner, by service of notice under Section 50 Cr.P.C.

25) The first point urged by the learned counsel for the petitioner, that the vehicle was intercepted outside the territorial jurisdiction of the Court of Session Judge, Kamrup (Metro), where the charges against the petitioner were submitted is taken up first.

26) The case of the prosecution is that the accused persons, on being intercepted on 28.10.2023, had confessed to the NCB that 32 packets of heroin were kept concealed in the car, out of which 11 packets were kept concealed in a special cavity near the co-driver seat, between co-driver seat and co-driver gate within the floor of the car; 11 packets of heroin were concealed in a special cavity near the driver's seat, between the driver's seat and driver gate within the floor of the car; 5 packets of heroin were kept concealed in a special cavity under the co-driver's seat in the floor of the car; and 5 packets of heroin were kept concealed in a special cavity under the driver's seat in the floor of the car.

27) It is not the case of the petitioner that the heroin was not kept in a concealed condition in four specially constructed concealed and/or secret cavities in the car in which heroin was being trafficked. In the considered opinion of the Court, those four concealed/ secret cavities manufactured in the car could not have been easily located and opened without the assistance of the car mechanic. It is not expected, by any stretch of imagination that NCB and/or

any other police force would be ready with equipment and tools to open concealed cavities that may have been secretly kept concealed inside the car used for trafficking drugs. It is not also expected that the officials and sleuths of NCB would stay exposed overnight with accused, heroin and witnesses on a highway till a mechanic is located and arrives at the location. Thus, the explanation by the NCB in the complaint that owing to security concerns and necessity of the situation, and the foggy night, the vehicle with concealed contraband, and accused was taken to NCB-GZU, where they reached by 11.00 pm., and with the arrival of a car mechanic, the process of recovery of heroin was initiated at 11.15 pm.

28) Thus, the shifting of the concerned vehicle from the location at Highway, where it was intercepted, to NCB-GZU Office at Guwahati, cannot be held to vitiate the search and seizure, so as to entitle the petitioner to be released. Moreover, it cannot be said that there was undue delay in taking the car to the secured place. It is also not the projected case of the petitioner that the car was tampered in any manner so as to cast a doubt regarding the manner and/or propriety of the NCB in the conduct of search and seizure of heroin, a contraband psychotropic substance. Thus, the first point of determination raised by the learned counsel for the petitioner is answered in the negative and against the petitioner by holding that the seizure of the contraband at the NCB-GZU, which is away from the place where the vehicle carrying contraband was intercepted has not vitiated the search and consequent seizure of contraband heroin vitiates the same and entitles the petitioner to be released.

29) The second point urged by the learned counsel for the petitioner that the petitioner was arrested without adherence to the compliance of the

provisions of Article 21(1) of the Constitution of India is taken up now.

30) It may be stated that the petitioner has alleged that while arresting him, the grounds of his arrest were not disclosed in writing to the petitioner and no information was provided to the immediate family members or friends of the petitioner, so nominated by the petitioner.

31) From the contents of the memorandum of arrest, the reasons for arresting the petitioner have been fully disclosed.

32) At this juncture, it would be relevant to quote the provisions of Section 47 of the BNSS as well as Section 50 of the erstwhile Cr.P.C.:

Section 47 of BNSS:

Person arrested to be informed of grounds of arrest and of right to bail- (1) Every police officer or other person arresting any person without warrant shall forthwith communicate to him full particulars of the offence for which he is arrested or other grounds for such arrest. (2) Where a police officer arrests without warrant any person other than a person accused of a non-bailable offence, he shall inform the person arrested that he is entitled to be released on bail and that he may arrange for sureties on his behalf.

Section 50 of Cr.P.C.:

Person arrested to be informed of grounds of arrest and of right to bail (1) Every police officer or other person arresting any person without warrant shall forthwith communicate to him full particulars of the offence for which he is arrested or other grounds for such arrest. (2) Where a police officer arrests without warrant any person other than a person accused of a non-bailable offence, he shall inform the person arrested that he is entitled to be released on bail and that he may arrange for sureties on his behalf.

33) Therefore, from Section 47(1) of BNSS, 2023, the requirement of law is that on arresting a person without warrant, every police officer or other person arresting any person without warrant is required to communicate to him full particulars of the offence for which he is arrested, "or other grounds for such arrest". The same is also prescribed in Section 50 of the Cr.P.C.

34) Therefore, though the learned counsel for the petitioner has made a very strenuous argument to impress upon the Court that non-furnishing of the ground of arrest would be fatal and has supported his submission with several case citations, but in this case, the contents of the memorandum of arrest are specific to the petitioner and give the description of the offence for which he has been arrested, and it also contains the sections of law based on which the petitioner has been arrested. Thus, from the contents of the memorandum of arrest, as extracted hereinbefore, the Court is of the considered opinion that the said document contains "*the full particulars of the offence for which he is arrested*", which is in scrupulous compliance of the provisions of section 50 Cr.P.C., which is nearly *para materia* to the provision of Section 47(1) of the BNSS, 2023. Thus, the said memorandum of arrest is also found to be in compliance of Section 52(1) of the NDPS Act, 1985.

35) The requirement of law under both the hereinbefore quoted provisions of Section 50(1) of Cr.P.C. and Section 47(1) of the BNSS, 2023, is that the arresting officer is required to communicate to the arrested person "*full particulars of the offence for which he is arrested*" "*or other grounds for such arrest*". The use of word "or" cannot be interpreted under any canons of interpretation of statute to be read as "and" so as to mean that not only the arrested person is required to be communicated, (a) full particulars of the offence for which he is arrested "and" (b) to also communicate to the petitioner the ground of arrest.

36) In this regard, the Court is of the considered opinion that the words of statutory provision must be understood and read in its plain and ordinary meaning, which is the golden rule of interpretation. Therefore, the use of word "or" in between "*communicate to him full particulars of the offence for*

which he is arrested” and “*other grounds for such arrest*” must be interpreted that communication of either of the two would be sufficient and/ or that “*grounds of arrest*” is interchangeably used with communication of “*full particulars of the offence*”, as appears in the provisions of Section 50(1) of the Cr.P.C.; Section 47(1) of the BNSS, 2023.

37) The provision of Section 52(1) of the NDPS Act is quoted hereinbelow:

Disposal of persons arrested and articles seized (1) Any officer arresting a person under section 41, section 42, section 43 or section 44 shall, as soon as may be, inform him of the grounds for such arrest.

38) On a perusal of the above quoted provisions of Section 52 of the NDPS Act, it appears that, in a departure from Section 50(1) Cr.P.C. and Section 47(1) of the BNSS, 2023, the requirement under sub-Section (1) of Section 52 of the NDPS Act is that any officer arresting a person under Section 41 to 44 of the said Act is required to inform the arrested person of the “*grounds for such arrest*”. In this case, a “*memorandum of arrest*” was provided to the petitioner on 29.10.2023, the contents of which have been quoted hereinbefore. The same amounts to informing the petitioner of the “*grounds for such arrest*”. Accordingly, the Court is of the considered opinion that, on the contents of the memorandum of arrested which are extracted hereinbefore, there is due compliance in communicating to the petitioner the “*grounds of his arrest*”.

39) In paragraph 22 of the case of *Prabir Purakayastha (supra)*, cited by the learned counsel for the petitioner, the Supreme Court of India has observed that the right to be informed about the grounds of arrest flows from Article 22(1) of the Constitution of India and in paragraph 29 and 30 thereof, it has been held by referring to Article 22(1) and Article 22(5) of the Constitution

of India that the grounds of arrest must be communicated in writing. In paragraph 38 thereof, it has been held that "reasons for arrest" are formal in nature and can be generally attributed to any person arrested on accusation of an offence, whereas the "grounds of arrest" are personal in nature and specific to the person arrested. However, in the present case in hand, the law as laid down in the case of *Prabir Purakayastha (supra)* and *Vihaan Kumar (supra)*, is not seen to be violated.

40) Thus, in light of the discussions above and on discussion of the cases cited by the learned counsel for the petitioner, the Court is of the considered opinion that by providing the petitioner the memorandum of arrest on 18.12.2022, the petitioner has been communicated the "grounds of his arrest", which contain the description of huge quantity of drugs and psychotropic substances seized and the provisions of law contravened by the petitioner for which he was arrested. The said memorandum of arrest is specific to the petitioner.

41) It may be mentioned that this is not an application for bail. Therefore, there is no necessity for this Court to satisfy itself with the twin requirement of Section 37 of the NDPS Act before enlarging an accused on bail. Hence, no discussion is being made in this order regarding the decision of the Supreme Court of India in the case of (i) *Union of India v. Ajay Kumar Singh @ Pappu, (2023) 0 Supreme (SC) 285*, (ii) *Narcotics Control Bureau v. Mohit Aggarwal, AIR 2022 SC 3444* and (iii) *Satender Kumar Antil v. Central Bureau of Investigation, AIR 2022 SC 3386*.

42) The learned counsel for the petitioner had cited the case of *Madhu Limaye (supra)* to submit that if the arrest and detention is illegal, then a *habeas corpus* petition would be maintainable. However, in light of the

discussions above, the Court is of the considered opinion that the arrest of the petitioner cannot be held to be illegal and therefore, the case of *Madhu Limaye (supra)*, would not be of any aid to the petitioner.

43) As per news available in the internet portal of *Gplus*, a network magazine from Guwahati, in the year 2023, the Assam Police had seized drugs having a street value of about Rs.718.00 Crore, which includes 164 Kg. heroin; 29,114 Kg. ganja; 162 Kg. opium; 34,04,119 yaba tablets; 5,85,492 bottles of cough syrup and arrested about 4,719 drug traffickers. These figures do not include the drugs seized by agencies other than Assam Police. These figures would show that it is high time that drug traffickers must be treated as a separate class of crime against the Country.

44) In light of the discussions above, the Court is inclined to pass the following:

O R D E R

45) The prayer made in this writ petition to issue writ to release the petitioner is rejected.

46) Consequently, this writ petition is dismissed.

47) There shall be no order as to cost.

48) Nothing contained in this order shall prejudice either side during the trial of NDPS Case No. 140/2024, pending before the Court of the learned Special Judge, NDPS, at Guwahati.

49) It may be mentioned that normally when prayer for bail made in a bail application is rejected, it does not preclude the petitioner from filing a fresh application for bail. Therefore, it is clarified that the same principle would

not be attracted in respect of prayers made in a writ petition.

JUDGE

JUDGE.

Comparing Assistant

Parimita
a Kalita

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by Parimita
Kalita
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