

GAHC040000982026

2026:GAU-AP:66



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

Case No. : Crl.Petn./10/2026

Rashidul Islam
Son of Mojid Ali, resident of Chuburan Chubri Pathar, PS Orang, Udalguri District,
Assam 784114

VERSUS

The State of AP
represented by the PP of AP

Advocate for the Petitioner : Mizanur Rahman,

Advocate for the Respondent : P P of AP,

BEFORE
HONOURABLE MRS. JUSTICE YARENJUNGLA LONGKUMER

ORDER

23/01/2026

Heard learned counsel for the petitioner, Mr. M. Rahman.

2. This is an application under Section 528 of BNSS to set aside the NBWA order dated 01.05.2025 passed by the learned Special Judge, NDPS, Yupia in NDPS Case No. 46/2024 arising out of DMK Case No. 67/2023.

3. The learned counsel for the petitioner's submits that the petitioner is an accused person in the aforementioned NDPS Case No. 46/2024 and the learned Trial Court had issued a non-bailable warrant of arrest against the petitioner due to his non-appearance on the date of hearing on 01.05.2025, which was unintentional and due to circumstances beyond his control. It is stated that the petitioner is poor and illiterate person and he had gone to Maharashtra to look for a job after appearing for a few dates in the trial as he is the only earning member in his family, after a few months he shifted West Bengal for work and he worked there in a shop from 16.04.2025 to 30.11.2025 and a copy of the certificate from the proprietor has been annexed in the application. It is further submitted that the petitioner had engaged an Advocate on his behalf and the engaged counsel appeared before the Court on previous date. However, the petitioner failed to pay the fees of the learned counsel due to his financial hardship and as such, the counsel did not take any steps on behalf of the petitioner and accordingly, the Trial Court issued the NBWA Act against the petitioner along with fresh notice to his bailor on 01.05.2025. It is further submitted that on 01.05.2025, the 2 (two) bailors of the petitioner appeared before the court and prayed for some time to produce the accused person/petitioner before the court and accordingly, the prayer was allowed. Thereafter, the bailors informed the matter to the family of the petitioner and the bailors were thereafter able to contact the petitioner with the cooperation of the family members of the petitioner.

4. It is submitted that the next date of hearing is on 29.01.2026 and that the petitioner is ready to appear before the trial court and therefore, it is prayed that the NBWA may be recall so that he can appear before the trial court without being arrested, it is further submitted that the petitioner had no

knowledge about the issuances of the notices nor had he receive the summon and he had no contact with his counsel or the bailors and therefore, he was not aware about the issuances of summon against him. It is therefore prayed that the NBWA dated 01.05.2025 and 03.07.2025 maybe recall and he may be allowed to remain on the previous bail.

5. Learned Additional Public Prosecutor, Ms. L. Hage appearing for the State respondent has objected to the present application on the ground that the petitioner has been charged with offences under the NDPS Act involving commercial quantity and therefore, it is a serious offence, and it is seen that the petitioner has violated the bail condition and has also been negligent in appearing before the court. It is also submitted that the learned Trial Court had given enough opportunities to the petitioner to appear but the petitioner has failed to appear before the court on several occasions. The learned Additional Public Prosecutor therefore submits that the present application may be dismissed as it is devoid of merit.

6. The Court has considered the submission of the learned counsel and had perused the pleadings along with the enclosure therein. As per the order of the trial court dated 01.05.2025, it is seen that the petitioner fail to appear on the fixed date and therefore, the court had issued non-bailable warrant of arrest against the petitioner with afresh notice to his bailors namely Yakup Ali and Kasem Ali. Thereafter, the matter was fixed on 03.07.2025 for appearance on the accused persons and the bailors. Subsequently, on 03.07.2025, when the matter was listed again, the petitioner failed to appear on 03.07.2025 also and the 2 (two) bailors Yakup Ali and Kasem Ali filed a petition No. 679/2025 stating that they have tried to find out the accused person but the accused person is

found not available therefore, they prayed for some time to produce the accused person before the court. Thereafter the court issued another fresh NBWA against the present petitioner/ accused fixing the matter on 24.09.2025 for appearance of the accused person.

7. The order dated 24.09.2025 has not been annexed by the petitioner herein but it appears that the petitioner did not appear before the court even on 24.09.2025 and has instead filed the present application before this Court.

8. This Court is of the view that the petitioner has been given enough opportunities by the learned Trial Court to appear before the court, in fact the bailors were also unable to get in touch with the present petitioner; it is not believable that in this day and age, the petitioner could not be contacted over the phone. In fact, it is seen that the petitioner has been negligent and has been deliberately trying to avoid the process of law specially, when the offence involved is a serious offence under NDPS Act for seizure of commercial quantity contraband.

This Court finds no merit in the present application and therefore, is dismissed.

The accused is at liberty to file a fresh bail application before the trial court.

JUDGE

Comparing Assistant