

GAHC040001332026



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

Case No. : BA/7/2026

Smti Tam Tarh Ayum
Wife of Shri Biri Ruja, permanent resident of Village Dolikoto, beside PTC
Banderdewa Gate No.1, PO and PS Banderdewa, Papum Pare District, Arunachal
Pradesh.

VERSUS

The State of AP
through the Special PP of SIT

Advocate for the Petitioner : Tania Kipa, T Nima

Advocate for the Respondent : Loma Kurdu, Spl.PP (SIT)

BEFORE
HONOURABLE MR. JUSTICE BUDI HABUNG

ORDER

Date : 27.02.2026

Heard Mr. T. Kipa, learned counsel for the petitioner. Also heard Mr. L. Kurdu, learned Special Public Prosecutor (SIT) for the State respondent.

2. This application under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, has been filed by the petitioner praying for release of the accused on bail, namely, **Shri Biri Ruja**, who has been arrested on 14.09.2025 in connection with SIT Case No. PHQ/CB-PS/NRJ/FIR-77/2025 arising out of Nirjuli P.S. Case

No. 77/2025 under Section 308(2)/61 of BNS, 2023, read with Section 13 of UAP Act.

3. The learned counsel for the petitioner submits that earlier, the bail application filed before the Sessions Court for release of the accused was rejected on 07.01.2026 on the ground that there is a serious allegation against the accused and there is material on record showing that the accused is the Vice Chairman of the United Tani Army, who is collecting arms and ammunition to wage war against the nation. The learned Court while rejecting bail also observed that the activities of the accused shows that he is a trained cadre of the United Tani Army and he is taking training in the use of arms and ammunition and is even shown to have contact with the Chairman of the United Tani Army, namely, Anthony Doke, and as such he is a threat to the sovereignty of India.

4. In this bail application, Mr. T. Kipa, learned counsel for the petitioner, submits that the grounds of arrest were not mentioned while furnishing the Arrest Memo or issuing the notice under Section 47 of the BNSS, which is a mandatory requirement. He further submits that the notice under Section 48 of the BNSS was not provided to the family members of the accused. Such non-compliance amounts to a violation of Articles 21 and 22(1) of the Constitution of India.

5. Accordingly, he contends that all full particulars of the offence alleged to have been committed by the accused must be communicated to him at the time of arrest; failure to do so is contrary to the mandate of the Constitution as well as the statutory provisions, thereby vitiating the arrest itself.

6. In support of the contention, the learned counsel for the petitioner has

relied on the following judgment of the Hon'ble Supreme Court;

- (i) ***Pravir Purkayastha Vs. State (NCT of Delhi)*** reported in ***2024 Supreme (SC) 463***, particularly paragraphs 22, 30 and 49 wherein it was held that non-compliance with the constitutional mandate to inform the arrested person of the grounds of arrest vitiates the arrest itself.
- (ii) ***Vihaan Kumar Vs. State of Haryana*** reported in ***(2025) 3 Supreme 363; 2025 0 Supreme (SC) 283***, particularly paragraphs 16, 21, 33 where the court reiterated the right under Article 22 (1) is a fundamental right and its violation invalidates the arrest and the consequential remand.
- (iii) ***Riyajul Sarkar Vs. The State of Assam and Anr.*** in ***Bail Application/740/2020 decided on 24.04.2025***, particularly in paragraph 15 where the Hon'ble Court found it a fit case to extend the privilege of bail to the accused/applicant as the grounds of the arrest were not communicated to the accused nor to his family members/relatives nor mentioned in the Arrest Memo.

7. Mr. T. Kipa, learned counsel for the petitioner, further relied on the judgment passed by this Court in ***B.A. Case No. 74/2025 (Gome Ligo vs. State of A.P & Ors.)***, and ***B.A. Case No. 142(AP)/2025***, wherein the accused was granted bail on the ground of violation of constitutional safeguards. He submits that where there is a violation of the constitutional mandate under Articles 21 and 22 of the Constitution of India, statutory restrictions cannot curtail the power of the Court to grant bail in such circumstances.

8. The learned counsel further contends that the non-mentioning of the

grounds of arrest while issuing the Arrest Memo or the notice under Sections 47 and 48 of the BNSS itself amounts to a violation of Article 22(1) of the Constitution of India. Hence, even without entering into the merits of the case, the present accused is entitled to bail.

9. On the other hand, Mr. L. Kurdu, learned Special Public Prosecutor (SIT), fairly submits that this Court, in the case of ***Gome Ligo*** (*supra*), observed that the police, in most cases, have failed to document the requirement under Article 22(1) of the Constitution of India and under Section 47 of BNSS. The Court had even directed the Superintendent of Police of the concerned district to take necessary steps in this regard and to initiate departmental action against the arresting officer for failure to record and document the ground of arrest in accordance with under Article 22(1) of the Constitution of India and under Section 47 of BNSS. A copy of the said order was directed to be sent to the Superintendent of Police of the concerned district and was also forwarded to the DGP/IGP (Crime) for circulation among all the police stations in the State of Arunachal Pradesh. However, despite such observations and directions, the police have failed to follow the procedural requirements. Thus, he fairly submits that the failure to document such a critical procedural requirement constitutes a violation of a fundamental right.

10. I have heard the submissions advanced by the learned counsel for the parties and considered the documents on record.

11. Article 22(1) of the Constitution of India mandates that no person who is arrested shall be detained in custody without being informed of the grounds of such arrest. Sections 47/48 of the BNSS similarly provide that the arresting officer shall inform the person arrested of the full particulars of the offences for

which he has been arrested or the other grounds for such arrest.

12. Sections 47 and 48 of the BNSS read as under:

"Section 47: 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 48: Obligation of person making arrest to inform about the arrest, etc. to relative or friend.

(1) Every police officer or other person making any arrest under this Sanhita shall forthwith give the information regarding such arrest and place where the arrested person is being held to any of his relatives, friends or such other persons as may be disclosed or mentioned by the arrested person for the purpose of giving such information and also to the designated police officer in the district.

(2) The police officer shall inform the arrested person of his rights under sub-section (1) as soon as he is brought to the police station.

(3) An entry of the fact as to who has been informed of the arrest of such person shall be made in a book to be kept in the police station in such form as the State Government may, by rules, provide.

(4) It shall be the duty of the Magistrate before whom such arrested person is produced, to satisfy himself that the requirements of sub-section

(2) and sub-section (3) have been complied with in respect of such arrested person.

13. A bare perusal of the case record and the arrest memo reveals that no recording of the grounds of arrest was made or explained to the accused person.

14. The Hon'ble Supreme Court in ***Pravir Purkayastha vs. State (NCT of Delhi)*** (*supra*) and ***Vihaan Kumar vs. State of Haryana*** (*supra*), as well as the Hon'ble High Court in ***Riyajul Sarkar vs. The State of Assam and Anr.*** (*supra*), has clarified that non-compliance with the mandate of Article 22(1) renders the arrest unconstitutional and illegal. The consequences of such illegality cannot be brushed aside lightly.

15. In light of the above discussion, this Court is inclined to allow the bail application, not on the merits of the case, but solely on the ground of violation of the constitutional and statutory rights of the accused person at the time of his arrest.

16. Accordingly, the accused, **Shri Biri Ruja** is directed to be released on bail, subject to the following stringent conditions to ensure that no prejudice is caused to the trial of the case:

- (i) The accused shall be released on furnishing a bail bond of Rs. 50,000/- (Rupees fifty thousand only) with two sureties of like amount, to the satisfaction of the concerned Magistrate at Yupia.
- (ii) The accused shall cooperate and make himself available for trial as and when required;
- (iii) The accused shall not, directly or indirectly, make any inducement, threat, or promise to any person acquainted with the facts of the case so as to dissuade

them from disclosing such facts to the Court or to any police officer, nor shall he tamper with the evidence; and

(iv) The accused shall not leave the jurisdiction of the concerned Magistrate, Yupia, without prior permission.

17. Any violation of the above conditions shall entail immediate cancellation of the bail.

18. As submitted by the learned Special Public Prosecutor, it has been observed that despite repeated observations and directions issued by this Court from time to time, the police have failed to document the ground of arrest in accordance with Sections 47 and 48 of the BNSS, and under Article 22(1) of the Constitution of India.

19. Under the circumstances, this Court, while reiterating its earlier observations once again, directs the concerned Superintendent of Police, to take necessary steps in this regard and to initiate departmental action, if necessary, against the Arresting Officer for failure to record and document the grounds of arrest in accordance with under Sections 47 and 48 of the BNSS, and under Article 22(1) of the Constitution of India.

20. Let a copy of this order be sent to the concerned Superintendent of Police for necessary action.

21. A copy of this order shall also be forwarded to the DGP/IGP (Crime) for circulation among all police stations in the State of Arunachal Pradesh.

22. The bail application stands disposed of in terms of the above.

JUDGE

Comparing Assistant