

GAHC040003112026



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

Case No. : BA/22/2026

Bhagyeswari Basumatary
Wife of Shri Atul Basumatary, resident of No.2 Pukhuripara, Dhupguri, Golaghat,
Assam 785601

VERSUS

The State of AP
represented by the PP of AP

Advocate for the Petitioner : Gautam Phukan,

Advocate for the Respondent : P P of AP,

BEFORE
HONOURABLE MR. JUSTICE KARDAK ETE

ORDER

Date : 22-04-2026

Heard Mr. G. Phukan, learned counsel for the applicant. Also heard Ms. L. Hage, learned Additional Public Prosecutor for the State.

2. This is an application under Section 483 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, praying for grant of bail to the accused person, namely, *Rohit Basumatary @ Ruhit Basumatary*, in connection with NDPS Case No. 47/2026, pending before the learned Special Judge (NDPS), Yupia, arising out of

Chimpu P.S. Case No. 26/2025, under Sections 109/118(2)/121(1)(2)/125/152/281 of the Bharatiya Nagarik Sanhita (BNS), 2023, read with Section 3(1) of the PDPP Act, Section 25(1)(1B)(a)/27(1) of the Arms Act and Sections 21(b)/27A/29 of the NDPS Act, 1985, who was arrested on 23.03.2025.

3. The case emanates from an F.I.R. dated 22.03.2025 lodged by the Deputy Superintendent of Police, reporting that on 22.03.2025 at about 1530 hours, acting upon credible intelligence, a special team led by the Sub-Divisional Police Officer, Itanagar, intercepted a known and habitual narcotics trafficker, namely *Rohit Basumatary*, near Soge Resort, Itanagar. The accused, stated to be a history-sheeter with multiple NDPS-related cases across States, was travelling in a blue Renault vehicle bearing registration No. AS-11Z-2129 and was suspected to be armed and in possession of contraband substances. Upon interception, the accused allegedly attempted to evade apprehension by driving in a rash and erratic manner, ramming into the barricade and crashing into an embankment. It is further alleged that he thereafter exited the vehicle and opened fire upon the police team with intent to kill, thereby endangering public safety and upon being chased into the adjoining forested area, again fired at the pursuing police personnel. In the ensuing retaliatory fire, the accused sustained a bullet injury to his leg and was apprehended after a brief chase. Thereafter, upon search of the vehicle conducted in the presence of Executive Magistrate and independent witnesses, a firearm with six live rounds, several spent cartridges and approximately 11.8 grams of contraband substances concealed in a hidden compartment were recovered.

4. Accordingly, a case was registered being Chimpu P.S. Case No. 26/2025, under Sections 109/118(2)/121(1)(2)/125/152/281 of the Bharatiya Nagarik Sanhita (BNS), 2023, read with Section 3(1) of the PDPP Act, Section 25(1)(1B)

(a)/27(1) of the Arms Act, and Sections 21(b)/27A/29 of the NDPS Act, 1985. The accused was arrested on 23.03.2025 and has since been in judicial custody.

5. On completion of investigation, the Police has filed the Charge-sheet being Charge-sheet No. 32/2025, on 12.05.2025 against the accused under Sections 109(1)/118(2)/121(1)(2)/125(a)/281 of the BNS, 2023, read with Section 3(1) of the PDPP Act, Section 25(1)(1B)(a)/27(1) of the Arms Act and Sections 21(b)/27(a) of the NDPS Act, 1985, which is pending trial.

6. Mr. Phukan, learned counsel for the accused, submits that the arrest of the accused was made on the basis of the FIR and merely on suspicion, without any substantive material. It is submitted that the alleged recovery of contraband substances, suspected to be heroin and a firearm from the vehicle in question do not belong to the accused and that he had no knowledge of any such contraband being concealed in the vehicle driven by him. It is also contended that the accused did not fire upon the police personnel; rather, the injury sustained by him was caused by a bullet fired by the police, resulting in a severe injuries. It is further submitted that no grounds of arrest were furnished either to the accused or to his family, rendering the arrest illegal and in violation of the fundamental rights of the arrestee.

7. Mr. Phukan, learned counsel submits that the accused has undergone long incarceration prior to conviction, having been arrested on 23.03.2025 and has remained in custody for more than a year. It is submitted that the police has already filed the Charge-sheet and therefore, there is no requirement of further custodial interrogation. The continued incarceration of the accused amounts to pre-trial punishment, which is impermissible in law and results in curtailment of the fundamental right to liberty guaranteed under the Constitution. It is further submitted that prior to filing of the Charge-sheet, the accused was thoroughly

interrogated, culminating in the submission of the report and the matter is now pending trial before the learned Special Judge (NDPS), Yupia. Therefore, it is prayed that the accused may be released on bail, subject to such conditions as this Hon'ble Court may deem fit and proper, which the accused undertakes to comply with.

8. Ms. L. Hage, learned Additional Public Prosecutor, on the other hand submits that the accused is a habitual offender, involved in as many as eight serious cases under the NDPS Act and the Arms Act across the State of Arunachal Pradesh as well as in the State of Assam. It is submitted that there is sufficient material against the accused, inasmuch as contraband substances weighing 11.8 grams, which has been confirmed by FSL analysis to be heroin (brown sugar), were recovered. It is further submitted that a firearm along with live rounds of ammunition and several spent cartridges were also recovered from the accused. She submits that there is a high likelihood of flight risk in the event of grant of bail, as the accused is not a native of the State and is involved in multiple serious cases across different States. Therefore, it is prayed that the bail application may be rejected.

9. I have considered the submissions of the learned counsel for the parties and have also perused the scanned copy of the trial court records.

10. The accused was arrested on 23.03.2025 with contraband substances along with arms and ammunition allegedly recovered from his possession. It is alleged that the accused was involved in the peddling of an intermediate quantity of contraband substances and when the police attempted to apprehend him on the basis of credible information, he opened fire upon the police personnel on duty, resulting in serious injury. No doubt, the accused has been in judicial custody since 23.03.2025; however, the alleged offences against him are

of a serious nature. More so, since when he was sought to be apprehended on the strength of credible information, he is alleged to have opened fire upon the police personnel on duty.

11. Records reveal that, apart from the present case, the accused is involved in as many as eight cases in various jurisdictions across the States of Assam and Arunachal Pradesh, which *prima facie* indicates that he is a habitual offender.

12. It is noticed that when the accused was arrested on 23.03.2025, an intimation regarding his arrest was telephonically conveyed to his mother, the applicant herein. Thus, there appears to be no violation of the provisions of law in arresting the accused.

13. Records further reveal that the accused is involved in unlawful possession of contraband substances for illicit interstate transportation and distribution. The accused has caused injury to police personnel on duty by resorting to open fire while he was being apprehended. The recovery of arms with live rounds of ammunition and spent cartridges is also not denied by the accused. The FSL report reflects a positive result with respect to the seized contraband substances recovered from the possession of the accused. That apart, the trial has already commenced, although the consideration of charge is stated to be fixed on 23.04.2026.

14. Having considered the above and taking into account that there are sufficient materials against the accused, who is involved in several cases in various jurisdictions across the States of Assam and Arunachal Pradesh, which *prima facie* indicates the commission of alleged offences and having regard to the seriousness of the offences under the NDPS Act and the Arms Act, which have a direct bearing on public health and public safety, this Court is of the view

that release of the accused at this stage would be detrimental to society at large and prejudicial to the larger public interest, as the possibility of repetition of similar offences cannot be ruled out and also considering that the trial would suffer if the accused is released on bail, this Court is not inclined to admit the accused, namely *Rohit Basumatary @ Ruhit Basumatary*, to bail in connection with NDPS Case No. 47/2026, pending before the learned Special Judge (NDPS), Yupia, arising out of Chimpu P.S. Case No. 26/2025, under Sections 109/118(2)/121(1)(2)/125/152/281 of the Bharatiya Nagarik Sanhita (BNS), 2023, read with Section 3(1) of the PDPP Act, Section 25(1)(1B)(a)/27(1) of the Arms Act and Sections 21(b)/27A/29 of the NDPS Act, 1985.

15. Accordingly, the bail application stands rejected and is disposed of.

JUDGE

Comparing Assistant