

GAHC040020272025



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

Case No. : BA/153/2025

Fokhar Uddin
Son of Late Sabed Ali, a permanent resident of Fatehpur, Kutubpur, Sawkuchi
Village, PO Fatehpur, PS Bhipuria, North Lakhimpur District, Assam 787054

VERSUS

The State of AP
through the PP of AP

Advocate for the Petitioner : Bomchi Taipodia, G Loyi, B Riba

Advocate for the Respondent : P P of AP,

BEFORE
HONOURABLE MRS. JUSTICE YARENJUNGLA LONGKUMER

ORDER

Date : 23.01.2026

Heard Mr. B. Taipodia, learned counsel for the petitioner. Also heard Mr. T. Ete, learned Additional Public Prosecutor for the State respondent.

2. The present application under Section 483 of Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, has been filed praying for release of the accused person, namely, **Shri Shadiqul Islam**, who was taken into custody by the trial Court due to non-appearance on 2(two) occasions in connection with NDPS Case No.

07/2024 under Section 21(b) of NDPS Act, on bail.

3. The case of the petitioner is that a charge-sheet has been filed against the alleged accused in connection with NJR Case No. 82/2023 under Section 21(b) of the NDPS Act, and the matter was fixed on 12.03.2024 for appearance of the accused person. Thereafter, the case was fixed again on 07.05.2024 and 27.06.2024 for his appearance. Further, the matter was fixed for consideration of charge on 28.08.2024, 24.10.2024, 11.02.2025, 21.03.2025, 24.04.2025, 27.05.2025 and 20.06.2025.

4. The learned counsel for the petitioner submits that the accused person had undergone 6 (six) months de-addiction treatment at a Rehabilitation Centre from 02.03.2025 and therefore, the accused person had not been able to appear before the trial Court on 21.03.2025, 24.04.2025, 27.05.2025, and 20.06.2025. However, the learned trial Court had issued a non-bailable warrant of arrest against the accused person on 21.08.2025, and the Court has forfeited the bail bond, alleging that the accused had remained absent on 2 (two) occasions.

5. The learned counsel for the petitioner submits that the aforementioned rehab centre, namely, Re-Habit Foundation, Bhipuria, is no longer functioning and, as such, the accused person could not produce the documents from the rehab centre.

6. The learned counsel for the petitioner further submits that on the strength of non-bailable warrant of arrest issued on 21.08.2025, the trial Court has taken the accused person into custody and he was remanded to judicial custody fixing 26.08.2025 for his appearance and hearing on the consideration of charge.

7. The learned counsel submits that from 28.07.2025 till 05.08.2025, he was in Lakhimpur medical college and hospital for his son's medical treatment. Moreover, there was a communication gap between the engaged counsel and the accused person. And it is categorically submitted that no any summon or information was received by the alleged accused from the trial Court or his engaged counsel regarding the next date of appearance.

8. It is submitted that non-appearance of the accused was not intentional, as he was admitted to the rehab centre and moreover, he had not received any information regarding the summons. It is therefore, prayed that the accused may be released on bail in connection with NDPS Case No. 07/2024. It is also further submitted that the accused has been in judicial custody for about 150 days and the offence under which he has been charged is Section 21(b) of the NDPS Act, which is not a commercial quantity. Further, the accused is a permanent resident having immovable properties at Fatehpur, Kutubpur, Sawkuchi village, District North Lakhimpur, Assam and as such, there is no chance of him absconding if bail is granted.

9. The learned Additional Public Prosecutor for the State has stated that if this Court is inclined to grant bail, stringent conditions may be imposed.

10. Upon consideration of the above facts and circumstances, this Court is of the view that the accused person has been undergoing treatment at the rehab centre and his non-appearance before the trial Court was not intentional. Moreover, the accused person is charged with Section 21(b) of the NDPS Act, which is intermediate quantity. And he has been in custody for more than 150 days.

11. According this petition is allowed.

12. The accused person, namely, **Shri Shadiqul Islam**, is released on bail under the following terms and conditions:

- i. Execution of bail bond of Rs. 30,000/- (Rupees thirty thousand) only with one local surety of like amount to the satisfaction of the trial Court.
- ii. The accused shall appear before the trial Court on every fixed date and shall not be absent without showing cause.

13. With the above conditions, this petition stands allowed and is disposed of.

JUDGE

Comparing Assistant