

GAHC040020412025

2026:GAU-AP:25



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

Case No. : BA/156/2025

Tanam Dayam

Son of Shri Taru Dayam, resident of Village Dayam, under Chetam Circle, PO and PS Daporijo, Upper Subansiri District, Arunachal Pradesh.

VERSUS

The State of AP and 2 Ors
represented by the PP of AP

2:Boken Kampong

Age: 0

Occupation :

Son of Shri Taru Kampong
resident of Abo Tani Colony

Daporijo

PO and PS Daporijo

Upper Subansiri District

Arunachal Pradesh.

3:Miss XYZ

Age: 0

Occupation :

Daughter of Shri Taru Kampong
resident of Abo Tani Colony

Daporijo

PO and PS Daporijo

Upper Subansiri District

Arunachal Pradesh

Advocate for the Petitioner : Gedo Kato, Jambey Tsering Kee, Pkyum Tamin

Advocate for the Respondent : P P of AP, Legal Aid Counsel, Uttam Bori

BEFORE
HONOURABLE MRS. JUSTICE YARENJUNGLA LONGKUMER

ORDER

20/01/2026

Heard learned counsel for the petitioner, Mr. P. Tamin. Also heard Ms. L. Hage, learned Additional Public Prosecutor for the State respondent and also Mr. U. Bori, learned counsel for the victim and informant/respondent Nos. 2 and 3.

2. The present application under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 has been filed praying for release of the accused Sri. Takor Dayam, who was arrested on 14.07.2025 in connection with Daporijo Police Station Case No. 48/2025 under Sections 75(2)(3)/74/78/79 of the BNS, 2023 R/W Section 12 of POCSO Act, 2012.

3. It is the submission of the learned counsel for the petitioner that the authorities at the time of arrest of the accused person has violated the provisions of Sections 47 and 48 of the BNSS and has failed to adhere to the prescribed procedure. In view of the same, it is submitted that there has been violation of the fundamental rights guaranteed to the accused person under Article 21(1) and Article 22(2) of the Constitution of India. And on this ground alone the accused is entitled to be enlarged on bail, as a matter of right. It is also submitted that as far as the status of the case is concerned, the charge sheet has already been filed and the case is now ready for consideration of charge. It is further stated that the accused person is a permanent resident of Dayam village of Chetam Circle in upper Subansiri District, Arunachal Pradesh

and as such, there is no chance of absconding or jumping bail. It is therefore, prayed that this application may be allowed and the accused may be released on bail.

4. The Learned Legal Aid Counsel for the victim submits that in the interest of justice the rights of the accused has to be balanced with the right of the victim in as much as the case has already been fixed for consideration of charge on 21.01.2026 and therefore, the accused person can also apply for bail before the trial court and accordingly, prays that this Court may not entertain this application at this stage.

5. Learned Additional Public Prosecution, Ms. L. Hage has fairly submitted upon going through the records that the requirements of Section 47 and 48 of the BNSS have not been complied with and therefore, leaves the matter to the discretion of the court.

6. The learned counsel for the petitioner has relied on the case of 1) ***Prabir Purkayastha- Appellant Versus State (NCT of Delhi) – Respondent*** reported in ***2024 SCC 463*** 2) ***Vihaan Kumar – Appellant Versus State Of Haryana & Anr. – Respondents*** reported in ***2025 SCC 283*** 3) ***Ashish Kakkar – Appellant Versus Ut Of Chandigarh – Respondent*** reported in ***2025 SCC 1587, 2025 KHC(Online) 7235*** 4) ***Sri. Neizosetuo Kire S/o Sh. Neibatuo Kirer – Appellant Vs. The State Of Nagaland And Anr. – Respondent*** reported ***2025 Supreme(Gau) 457*** 5) ***Gome Ligo Versus The State of AP and 2 Ors*** reported in ***2025:GAU-AP:881*** in support of his contentions.

7. Upon going through the records which have been received from the trial court and on analyzing the arrest memo which is before the court, this Court has observed that the entire column regarding grounds of arrest is left blank moreover, there is no indication as to which relative or family members of the accused has been informed regarding the arrest of the accused person and therefore, this Court is of the view that the provisions of Section 47 and 48 of the BNSS has been violated by the arresting authorities at the time of arrest and thereby, the fundamental rights guaranteed to the accused person under Article 22(2) of the Constitution of India has been violated.

8. In view of the above observations, the accused person is hereby released on bail on the following terms and conditions:

- (i) The accused shall execute a bail bond of Rs. 30,000/- with two sureties of like amount, who shall be 2 (two) local residents, to the satisfaction of the learned trial court.
- (ii) The accused shall not leave the jurisdiction of the trial court without the leave of the court.
- (iii) The accused shall not try to contact or influence the witnesses and shall not try to contact the victim in any manner whatsoever.
- (iv) The accused shall appear before the trial court on every date as and when fixed by the court.

Matter stands disposed of.

JUDGE

Comparing Assistant