

GAHC040020502025



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

Case No. : BA/157/2025

Sorang Takia
Son of Sorang Tabe, a residence of Ania Village, Nirjuli, PO and PS Nirjuli, Papum
Pare district, Arunachal Pradesh.

VERSUS

The State of AP and Anr
represented by the PP of AP

2:Sorang Tajik
Age: 0
Occupation :
resident of Chimpu
PO RK Mission
PS Chimpu
Arunachal Pradesh

Advocate for the Petitioner : Abhai Kumar Singh, Nabam Kakum, Tsering Nyima

Advocate for the Respondent : P P of AP, Pramod Kr. Gour

**BEFORE
HONOURABLE MR. JUSTICE BUDI HABUNG**

ORDER

Date : 19-01-2026

Heard Mr. Abhai Kumar Singh, learned counsel for the petitioner. Also heard Ms. Topi Jini, learned Addl. P.P., Arunachal Pradesh, appearing on behalf of respondent No. 1; and Mr. Pramod Kr. Gour, learned counsel, appearing on behalf of respondent No. 2.

2. This application has been filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023, seeking release of the accused on bail who was arrested in connection with Itanagar Women P.S. Case No. 03/2025, registered under Section 137(2)/87 of the Bharatiya Nyaya Sanhita(BNS), 2023, *read with* Section 6 of the Protection of Children from Sexual Offences Act, 2012.

3. The case of the petitioner is that, based on a missing report lodged by one Shri Sorang Tajak before the Officer-in-Charge, Women Police Station Capital Complex, Itanagar, on 31.01.2025; initially, the above-noted police case was registered under Section 137(2) of the Bharatiya Nyaya Sanhita(BNS), 2023, and subsequently, Section 87 of the Bharatiya Nyaya Sanhita(BNS), 2023, and Section 6 of the Protection of Children from Sexual Offences Act, 2012, was added. The accused was arrested on 26.02.2025 and since then, he has been languishing in judicial custody till date.

4. Earlier, one bail application before the learned Special Judge, POCSO Act, and another before this Court, were moved by the petitioner for release of the accused on bail. However, both the applications were rejected by the Courts on 30.07.2025 and 05.09.2025, respectively.

5. This is the 3rd bail application seeking release of the accused on bail. In this bail application, the petitioner seeks bail for the accused mainly on the ground that the mandatory requirement of "communication of the grounds of arrest to the accused" at the time of his arrest was not complied with and therefore, such non-compliance amounts to violation of Article 22(1) and 21 of the Constitution of India and also section 47 and 48 of the Bharatiya Nagrik Suraksha Sanhita(BNSS).

6. The learned counsel for the petitioner submits that though arrest memo recording the general reasons for arrest of the accused were issued, but, the prosecution records do not show that specific grounds of arrest were furnished in writing to the accused and/or to his family at the time of his arrest as is mandatorily required.

7. In support of his contentions, the learned counsel for the petitioner relies on the following judgments of the Hon'ble Supreme Court:-

(i) *Vihaann Kumar Vs.. Statee of Haryana* reported in **(2025) 3 Supremee 363; 2025 0 Supreme(SC)283**, whereby, the Court reiterated the right under Article 22 (1) to be a fundamental right and its violation invalidates the arrest and the consequential remand.

(ii) *Pravir Purkayastha Vs.. State(NCT of Delhi)* reported in **2024 Supreme(SC) 463**, 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.

8. The learned counsel for the petitioner submits that upon submission of

chargesheet, the trial of the case has already begun and some of the prosecution witnesses have already been examined including the informant and the case is pending for examination of the rest of the witnesses and therefore, the custodial remand of the accused is no longer required for trial purpose.

9. The learned counsel further submits that non-mentioning of the grounds of arrest while issuing the arrest memo or the notices under section 47 and 48 of the Bharatiya Nagrik Suraksha Sanhita(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 be released on bail in view of the decision rendered by the Hon'ble Supreme Court in the case of **Vihaann Kumar**(supra) and **Pravir Purkayastha**(supra).

10. The Registry was directed to call for the related Trial Court Records.

11. Based on the Trial Court Records, the learned Additional Public Prosecutor, Arunachal Pradesh, fairly submits that at the time of the arrest of the accused, the grounds of arrest were neither communicated to him, nor, to his family members. Therefore, she fairly concedes to the submissions made by the learned counsel for the petitioner that the mandatory requirement at the time of the arrest of the accused, was not complied with by the arresting authority.

12. Mr. Gour, learned counsel for the respondent No. 2, also fairly submits that since the mandatory requirement of communication of the grounds of arrest of the accused, was not complied with at the time of his arrest, moreover, he has no objection if the accused is released on bail as the alleged accused and the victim girl are sibling from the same parent.

13. I have considered the submissions made by the learned counsels appearing for the parties and also perused the case records.

14. The arrest memo available on record shows only the general reason for arrest of the accused but there is no material to indicate that the grounds of arrest were furnished in writing to the accused at the time of his arrest, or, soon thereafter.

15. The Hon'ble Supreme Court in the case of ***Pankaj Bansal Vs Union of India*** has categorically held that "communication of the grounds of arrest must be in writing; oral, or, verbal communication is not sufficient." Non-communication of such grounds at the earliest opportunity vitiates the arrest and subsequent supply does not cure the initial illegality.

16. A bare perusal of the case records and the memo of arrest reveal that no recording of the grounds of arrest was made, or, explained to the accused person.

17. The Hon'ble Supreme Court in the case of ***Pravir Purkayastha*** (supra) and ***Vihaann Kumar***(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.

18. Though the offences alleged against the accused, in the above-noted police case, is grave, however, in light of the above discussions, 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.

19. Accordingly, the accused, namely, Shri Sorang Talo is directed to be released on bail subject to the following conditions:-

- (i).** The accused shall furnish a bail bond of Rs. 20,000/-(Rupees twenty thousand) with one surety of like amount to the satisfaction of the learned Trial Court;
- (ii).** The accused shall appear before the Trial Court on each date the trial is fixed and shall cooperate with the Trial;
- (ii)** The accused shall not, directly or indirectly, make any inducement, threat, or promise to the victim, or, to any person acquainted with the facts of the case; and
- (iv).** Considering the minor age of the victim girl; the learned Special Judge, POCSO Act, Yupia, shall pass appropriate orders directing the Child Welfare Committee(CWC) to ascertain the present condition of the victim girl and for her rehabilitation, if deemed necessary.

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

JUDGE

Comparing Assistant