



GAHC010284292025

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2026:GAU-AS:1640



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

Case No. : Bail Appln./4109/2025

**SRI BAPPI SARKAR AND 2 ORS.
S/O SRI GOPAL SARKAR VILLAGEGURIHATI PS KHAIRABARI DIST
UDALGURI, ASSAM.**

**2: SRI NABA DAS
S/O SRI GAYA RAM DAS VILLAGE BARAKHAT TANGLA PS TANGLA DIST
UDALGURI
ASSAM**

**3: SRI SANJAY SING
S/O SRI KAMAL SING GORH VILLAGE KHOIRA JANGAL NO.1
HATIGARH TE PS PANERI DIST UDALGURI
ASSA**

VERSUS

**THE STATE OF ASSAM
REP BY PUBLIC PROSECUTOR, ASSAM**

Advocate for the Petitioner : MR. A M KHAN, MR T T MONI, MD. R ALI

Advocate for the Respondent : PP, ASSAM,



BEFORE
HONOURABLE MR. JUSTICE SANJEEV KUMAR SHARMA

ORDER

06.02.2026

Heard Mr. A.M. Khan, learned counsel for the petitioners. Also heard Mr. B. Sarma, learned Additional Public Prosecutor for the State.

2. This is an application filed under Section 483 of the BNSS, 2023 praying for releasing of the accused petitioners on bail in connection with Bongaigaon GRPS Case No. 86/2025 under Section 20(b)(ii)C/29 of the NDPS Act.

3. The brief facts of the case are that on 19.07.2025 at about 7.30 pm the petitioners, namely, Bappi Sarkar, Naba Das and Sanjay Sing were found moving around suspiciously and they were possessing trolley bags and upon noticing the presence of the police, they attempted to flee but were intercepted and a search of the trolley bags revealed a total amount of 75.4 kg of suspected Ganja.

4. The petitioners were arrested on the same day on 20.07.2025 and forwarded on the same day to the learned CJM, Bongaigaon, where after the petitioners are still in jail. Learned counsel for the petitioners has stressed upon the fact that the notices under Section 47 and 48 BNSS were not in compliance with the aforesaid provisions of law.



5. It was submitted that the said notices were not written in a language understood by the petitioners i.e. the English language and although the two of the petitioners put their signatures in English, they actually did not know the English language while the third petitioner's thumb impression was taken which also indicates that he is illiterate. It is further submitted that the same lacunae is to be found in the notices under Section 48 BNSS sent to the family members of the petitioners written in the English language and that the said family members neither can read nor understand the English language.

6. A perusal of the notices under Section 48 available in the scanned TCR could go to show that they were prepared in the English language and sent to the relatives of the petitioners by way of WhatsApp messages, but there is no proof of service available.

7. In the absence of actual service, it certainly cannot be held that there was due compliance with the provisions of Section 48 BNSS, as per mandate of the Apex Court in ***Vihaan Kumar Vs. State of Haryana & Another*** reported in ***2025 SCC OnLine SC 269***.

8. In view of the above, the arrest of the petitioners are rendered illegal which entitles them to bail. Accordingly, it is directed that the petitioners, namely, Sri Bappi Sarkar, Sri Naba Das and Sri Sanjay Sing, shall be released on bail of Rs. 100,000/-(Rupees one lakh) each with 2 sureties each for the like amount to the satisfaction of the learned Trial Court in connection with the aforesaid case.



9. It is further provided that in the event of such release, it would be open for the I.O to move application for remand or custody along with reasons and necessity for the same after supply of the grounds of arrest in writing, setting forth the explanation for non-supply thereof within the stipulated schedule and on receipt of such application, the Magistrate shall decide the same expeditiously and preferably within a week of submission thereof by adhering to the principles of natural justice, as laid down in ***Mihir Rajesh Shah Vs. State of Maharashtra & Another***, reported in ***2025 INSC 1288***.

10. The Bail petition stands disposed of accordingly.

JUDGE

Comparing Assistant