



GAHC010282752025



2026:GAU-AS:2768

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

Case No. : Bail Appln./4113/2025

ABDUL KALAM
S/O APTAB UDDIN
R/O VILL- KANAKPUR
P.O. KAYASTHA GRAM
P.S. NILAM BAZAR
DIST. SRIBHUMI (KARIMGANJ) ASSAM, PIN-788719

VERSUS

THE UNION OF INDIA
REP. BY SC, NCB, GUWAHATI ZONE.

Advocate for the Petitioner : MR. A K TALUKDAR, M RAHOMAN,MR SHAHIN YUSUF

Advocate for the Respondent : SC, NCB,

BEFORE
HONOURABLE MR. JUSTICE ANJAN MONI KALITA

JUDGMENT & ORDER

Date of Hearing : 20.02.2026

Date of Judgment: 24.02.2026

Heard A. K. Talukdar, learned counsel appearing for the accused applicant and Mr. R.K.D. Choudhury, learned Deputy Solicitor General of India appearing

for NCB.

2. This is an application under Section 483 of the BNSS, 2023 for granting bail to the accused applicant namely, **Abdul Kalam**, who was arrested on 14.07.2025, in connection with NCB Guwahati Zonal Unit, Crime No. 09/2025 under Section 8(c) read with Sections 22(c)/29 of the NDPS Act, 1985.

3. The gist of the prosecution's case is that on 13.07.2025 at about 17:00 hours, Shri Pankaj Kumar Chouhan, Inspector, NCB, Guwahati, received a secret information that between 23:00 hours of 13.07.2025 and 02:00 hours of 14.07.2025, three persons, namely (1) *Md. Murad*, (2) *Sayed Musa*, and (3) *Md. Yakub Ali*, all residents of Sangaiyumpham under P.S. Thoubal, Manipur, would be trafficking approximately 10 kgs. of Methamphetamine tablets in a Mahindra XUV bearing registration No. AS 01 EX 5075 coming from Jagiroad side towards Guwahati. Pursuant thereto, on 14.07.2025, the NCB team intercepted the said vehicle at Nazirakhat Toll Plaza and apprehended the aforesaid three persons. It was alleged that, upon interrogation, the said persons admitted to trafficking Methamphetamine tablets concealed in specially fabricated cavities of the vehicle. However, unable to locate exact place of hiding the aforesaid contraband tablets in the vehicle, the vehicle was taken to a nearby workshop in the VIP Road, namely, Khushi Motor Works. Thereafter, at about 1:30 AM, the NCB team conducted a further search in the vehicle with the help of the mechanics and recovered 50 packets of Methamphetamine tablets weighing 10.858 kg from concealed cavities in the chassis of the vehicle. Consequently, NCB, GZU Crime No. 09/2025 was registered.

4. On the basis of the aforesaid seizure, an investigation was initiated by the NCB, Guwahati Zonal Unit, in Crime No. 09/2025 and the three aforementioned persons were taken into custody. Subsequently, the present accused applicant

was also arrested on 14.07.2025 and has since been languishing in judicial custody in connection with the said case. Formal Complaint in the case was submitted before the learned Sessions (SPL) Judge, Kamrup (Metro) and the same is registered as NDPS Case No. 12 of 2026.

5. Mr. Talukdar, learned counsel for the accused applicant, submits that the accused applicant had been staying at a hotel since 13.07.2025 when he received a phone call from NCB officials asking him to appear before the NCB office. In compliance, he appeared and was arrested. He contends that the implication of the accused applicant is solely based on the disclosure statements of co-accused persons and a statement recorded under Section 67 of the NDPS Act, which have weak evidentiary value in view of the law laid down in ***Tofan Singh v. State of Tamil Nadu***, reported in **(2021) 4 SCC 1**. Learned counsel further submits that the accused applicant had come to Guwahati for medical purposes and for personal work relating to the purchase of a laptop and tools for his son's proposed business, and had agreed to accompany co-accused Yakub Ali for his medical consultation as Yakub Ali told him that he did not know Assamese. He submitted that the Accused Applicant knew Yakub Ali as he is from his Father-in-law's village. He submits that the Accused Applicant had no knowledge of any alleged trafficking. It is also contended that no documentary evidence of any alleged monetary transaction has been produced against him.

6. Mr. Talukdar, learned counsel, submits that the accused applicant has a limited educational background and does not properly understand Hindi or English; yet his signatures were obtained on documents whose contents were not explained to him in a language known to him. He submits that there is also violation of mandatory provisions of section 36 and section 48 of the BNSS as the Arrest Memo does not contain any signature of any witness or any of his

family members. He submits that Section 48 of BNSS Notice was not served on any of his family members at the time of his arrest though the same was served on his family members on a later date in his village in Manipur. He submits that while arresting the accused applicant, the authorities did not comply with the mandatory provisions of Sections 36 and 48 of the BNSS, 2023. He submits that though a notice under Section 48 of the BNSS, 2023 dated 14.07.2025 was sent to the family members of the accused applicant, there are no signatures of the family members acknowledging receipt. Therefore, he submits that there is an apparent violation of the statutory provisions of Sections 36 and 48 of the BNSS, 2023. He further argues that since the personal liberty of the accused applicant has been curtailed and there has been a violation of his rights under Article 22(1) of the Constitution of India, the accused applicant should be released on bail, as his arrest is illegal.

7. On the other hand, Mr. R. K. D. Choudhury, learned Deputy Solicitor General of India appearing for the NCB, submits that the accused applicant was arrested on the basis of the confessional statement of a co-accused, namely Yakub Ali and other *prima facie* materials against him. He further submits that there are no violations of the notices under Sections 36 and 48 BNSS. Therefore, he opposes the prayer for bail made by the accused applicant.

8. This Court has considered the submissions made by the learned counsel appearing for the respective parties and has also perused the TCR that has been placed before the Court.

9. In this connection, Section 36 of the BNSS being relevant the same is quoted herein below:-

“36. Procedure of arrest and duties of officer making arrest- Every police officer while making an arrest shall-

(a) Bear and accurate, visible and clear identification of his name which will facilitate easy identification;

(b) Prepare a Memorandum of Arrest which shall be-

(i) Attested by at least one witness, who is a member of the family of the arrested person or a respectable member of the locality where the arrest is made;

(ii) Counter signed by the person arrested; and

(c) Informed the person arrested, unless the Memorandum is attested by a member of his family, that he has a right to have a relative or a friend or any other person named by him to be informed of his arrest.

10. This Court has perused the Arrest Memo under section 36 of the BNSS which is available in the TCR which clearly reveals that Grounds of Arrest have been detailed there in the Arrest Memo. It is also seen that signature of an independent witness is present in the Notice, which appears to be "A Mustafa", signed on the same date, i.e., 14.07.2025. In all the Documents including the Section 47 Notice, it is seen that the Accused Applicant had signed in English which shows that he is conversant with English Language. It is also seen that at the time of arrest, the wife of the Accused Applicant, namely Suraya Begum was intimated about his arrest over the telephone in her Mobile Phone No. 7636832173 by the Accused Applicant as she is a resident of a village in Manipur. It is also seen that a document to that effect was prepared which mentioned that Grounds of Arrest of the Accused Applicant were explained by him to his wife and the contents were admitted by the Accused Applicant by putting his signature on that. The receipt of the Written Notice containing details of Grounds of Arrest under Section 48 BNSS on a later date, though not at the time of his arrest, was also admitted by the learned counsel for the



Applicant Accused. Therefore, no pre-judice seems to have caused to the Accused Applicant at the time of his arrest. Since none of the family members or friends reside in Guwahati and all being residents in Manipur and taking into account the prevailing law and order situation in Manipur at that point of time, an admitted telephonic intimation and subsequent service of written notice under section 48 of BNSS, which has been specifically admitted by the learned Counsel for the Accused Applicant, cannot be termed as non-compliance of Section 48 of BNSS.

11. It is further seen that allegation of payment of Rs. 20 lakhs by one Nazim Uddin, an accomplice of the Accused Applicant to one Jaheda, the alleged supplier of the aforesaid seized contraband Yaba tablets. It is seen that the Mobile Phone No of Jaheda, i.e. 9707776069 was given to the NCB officials by the Accused Applicant himself. Therefore, at this stage, the involvement of the Accused Applicant in the alleged offence cannot be ruled out. The case of ***Toofan Singh (Supra)*** relied on by the learned counsel appearing for the Accused Applicant is not applicable to the facts of the instant case.

12. In view of the aforesaid *prima facie* findings, this Court is of the considered opinion that the Accused Applicant's prayer for bail does not have any merit and hence, the same is rejected at this stage.

13. Accordingly, the instant bail application stands disposed of as rejected.

JUDGE

Comparing Assistant