

Shri Gopal Krishan Gour vs State Of Meghalaya on 21 February, 2026

Author: W. Diengdoh

Bench: W. Diengdoh

2026:MLHC:102

Serial Nos. 01 & 02
Regular List

HIGH COURT OF MEGHALAYA AT SHILLONG

Crl.Rev.P. No. 15 of 2025 with
BA No.1 of 2026

Date of Decision: 21.02.2026

In Crl.Rev.P. No. 15 of 2025

1. Shri Gopal Krishan Gour
Son of (L) Moti Lal Gour,
Resident of 7/144, Vidyadhar Nagar,
Jaipur, Rajasthan - 302039.
2. Shri Rahul Gour,
Son of Gopal Krishan Gour,
Resident of 7/144, Vidyadhar Nagar,
Jaipur, Rajasthan - 302039.
All petitioners represented by
Shri Suraj Kumar, (Power of Attorney Holder)
Son of Diwani Ram, Resident of Pithoragarh, Bilai,
Uttarakhand - 262520.

..... Petitioners

- Vs -

1. State of Meghalaya
Represented by the Commissioner and Secretary,
Home Police Department,
Government of Meghalaya.
2. The Director General of Police,
Government of Meghalaya,
Shillong, Meghalaya.
3. The Investigating Officer UBSI,
Shri Pyniarlang Thabah.

.... Respondents

2026:MLHC:102 Shri Gopal Krishan Gour Son of (L) Moti Lal Gour, R/o Rukmani Jewellers (P) Ltd, Central Soine Rd. Sector-2, Central Spince, Vidhyadhar Nagar, Jaipur Rajasthan-302039.

Represented by his attorney Shri Suraj Kumar, S/o Shri Diwani Ram R/o Pithoragarh, Bilai, Uttarakhand - 262520 Petitioner

- Vs-

1. State of Meghalaya Represented by its Secretary, Home Police Department, Govt. of Meghalaya, Shillong.
2. Superintendent of Police, Ri-Bhoi District, Nongpoh, Meghalaya
3. Office In-Charge, Khanapara Police Station, Ri-Bhoi District, Meghalaya.
4. Shri. Pyniarlang Thabah The Investigating Officer (I/O) Khanapara Police Station, Ri-Bhoi, District, Meghalaya.

.... Respondents Coram:

Hon'ble Mr. Justice W. Diengdoh, Judge

i) Whether approved for reporting in Yes/No Law journals etc.:

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ii) Whether approved for publication in press: Yes/No Appearance:

For the Petitioner/Appellant(s) : Mr. K. Paul, Sr. Adv. with Mr. S. Panthi, Adv.

Mr. B. Snaitang, Adv.

Mr. S. Khyriem, Adv.

Mr. S. Chanda, Adv.

For the Respondent(s) : Mr. N.D. Chullai, AAG with Mr. J.N. Rynjah, GA.

COMMON JUDGMENT AND ORDER

1. The case of the petitioner Gopal Krishan Gour is that he along with Shri Rahul Gour has been implicated in a number of criminal cases instituted within the State of Meghalaya, as a result of which many FIRs have been lodged accusing the petitioners herein of being involved in many offences concerning financial irregularities, fraud,

forgery etc.

2. One such FIR was filed at Khanapara Police Station under Ri-Bhoi District, registered as Khanapara P.S Case No. 25 (07) 2024, prompting the petitioners to apply for grant of anticipatory bail, firstly, from the Trial Court which was rejected vide order dated 27.09.2024 and later on, this Court being approached with similar prayer, the said prayer was also rejected vide order dated 03.03.2025.

3. The petitioners have then approached the Supreme Court by way 2026:MLHC:102 of an SLP, i.e., SLP (Crl.) No. 3615 and 3588 of 2025 and by respective orders dated 21.04.2025 and another dated 29.04.2025, the Hon'ble Supreme Court had granted the prayer of the petitioner and they are allowed to go on bail in the event of their arrest. However, there is a condition imposed that stipulated that in case the petitioners failed to cooperate in the investigation, the State is at liberty to move the Trial Court for cancellation of the said anticipatory bail granted.

4. In due course, the prosecution through the Investigating Officer, Khanapara Police Station, had preferred an application being Criminal Misc.

Case No. 5 of 2025 before the Court of learned Chief Judicial Magistrate, Ri- Bhoi District, Nongpoh, with a prayer for cancellation of the bail granted to the petitioner Shri Gopal Krishan Gour. The learned CJM, upon hearing the parties vide order dated 15.12.2025, allowed the prayer made, and accordingly, the bail granted to the petitioner, Shri Gopal Krishan Gour was cancelled vide order dated 23.10.2025 with a further direction that he is to be arrested and taken into custody in accordance with law.

5. Being aggrieved by the said order dated 15.12.2025, the petitioners have moved this Court by way a Criminal Revision Petition, registered as Crl.Rev.P. No. 15 of 2025, inter alia, with a prayer to set aside and quash the said impugned order.

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6. In the meantime, during the pendency of hearing of the said application to set aside and quash the order dated 15.12.2025, the petitioner Gopal Krishan Gour, on 27.01.2025, while travelling from Rajasthan to Guwahati for appearing in Araimile P.S Case No. 25 of 2024, apparently in compliance with the direction issued by the Hon'ble Supreme Court in SLP(Crl.) No. 15504 of 2025, whereby the petitioner was required to appear before the Investigating Officer on 29.01.2026 at 11:00 AM, he was however accosted by CISF personnel at the Guwahati International Airport and was accordingly arrested.

7. On the said petitioner being arrested, he has filed 2 (two) bail applications, one dated 28.01.2026 before the Court of the learned Judicial Magistrate First Class, Nongpoh, which application was rejected vide order dated 28.01.2026. Another bail application was moved before the Court of the learned District and Sessions Judge, Nongpoh on 29.01.2026 and the same was also rejected vide

order dated 05.02.2026. Now, the petitioner has approached this Court by filing another bail application being BA No. 1 of 2026 with a prayer for grant of bail on account of his being arrested in connection with Khanapara P.S Case No. 25 (07) of 2024 under Sections 381/408/120B/417/418/420/34 IPC.

8. This Court having on board, both the Criminal Revision Petition 2026:MLHC:102 and the Bail application made on behalf of the petitioner, Shri Gopal Krishan Gour, the subject matter being interlinked, would deem appropriate and convenient to take up both applications for hearing and to pass a common judgment and order.

9. Heard Mr. K. Paul, learned Sr. counsel along with Mr. S. Panthi, learned counsel for the petitioner, who has submitted that the manner in which the petitioner, Gopal Krishan Gour was arrested, was in flagrant violation of the known procedure in criminal jurisprudence and is also contrary to the related provisions of law.

10. The first contention of the learned Sr. counsel is that, it is an admitted fact that the said petitioner was arrested in the State of Assam at the Lokapriya Gopinath Bordoloi, International Airport, which is outside the jurisdiction of the Ri-Bhoi, District Court. This was done without any arrest warrant being issued. In this regard, reference has been made to a communication dated 16.05.2012 issued by the Ministry of Home Affairs, Government of India, addressed to the Chief Secretaries of all States, wherein guidelines have been given as to what is required to be done when and how a person implicated in a case in one State may be arrested in connection with such case in another State which is outside the jurisdiction of the said State.

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11. In this connection, the said guideline prescribed under Section 48 of the Cr.P.C is that, a person can be arrested anywhere in India. Similarly, under Section 77 of the said Code, a warrant may be executed anywhere in India, however, as per Section 79 of the Code, when a warrant directed to a police officer is to be executed beyond the local jurisdiction of the Court issuing the same, he shall ordinarily take it for endorsement either to an Executive Magistrate or to a Police Officer not below the rank of an Officer- In-Charge of a Police Station within the local limits of whose jurisdiction the warrant is to be executed. In the event, of such arrest, the person arrested is to be produced before a Magistrate having jurisdiction in the case. However, this procedure has been totally overlooked when the petitioner was arrested from the said Guwahati Airport, and as such, such arrest has become illegal, submits the learned Sr. counsel.

12. Another contention raised by the learned Sr. counsel is that, apparently all the sections of law involved in the alleged offence said to have been committed by the petitioner, if proven to be true, would entail a maximum punishment of 7 years imprisonment. In this regard, before the petitioner was arrested, it was mandatory for the police to have issued a Notice under Section 35(3) of the BNSS, which is para materia with Section 41A (1) of the Cr.P.C, wherein, it has been stipulated that where the arrest of the 2026:MLHC:102 person is not required, a Notice must be issued, directing such a person to appear before the police officer at such place and time as may be specified in the

Notice. This is particularly relevant where the offences involved are punishable with imprisonment of upto 7 years.

13. To buttress this contention, the learned Sr. counsel has referred to the order dated 15.01.2026 passed by the Hon'ble Supreme Court in the case of Satender Kumar Antil v. Central Bureau of Investigation and Anr., [SLP (Crl.) No.5191/2021] which order at para 32 reads as follows:

"32. The power of arrest under Section 35(6) read with Section 35(1)(b) of the BNSS, 2023 must be interpreted as a strict objective necessity, and not a subjective convenience for the police officer. It does not mean the police officer can arrest to simply ask questions. However, it means that the police officer must satisfy himself that the investigation, qua an offence punishable with imprisonment up to 7 years, cannot proceed effectively without taking the concerned individual into custody. Any interpretation to the contrary would clearly frustrate the purpose and legislative intent of Sections 35(1)(b) and Sections 35(3) to 35(6) of the BNSS, 2023.

33. On the basis of the interpretation given by us, we conclude as follows:

- a. An arrest by a police officer is a mere statutory discretion which facilitates him to conduct proper investigation, in the form of collection of evidence and, therefore, shall not be termed as mandatory. b. Consequently, the police officer shall ask himself the question as to whether an arrest is a necessity or not, before undertaking the said exercise.
- c. For effecting an arrest, qua an offence punishable with 2026:MLHC:102 imprisonment up to 7 years, the mandate of Section 35(1)(b)(i) of the BNSS, 2023 along with any one of the conditions mentioned in Section 35(1)(b)(ii) of the BNSS, 2023 must be in existence.
- d. A notice under Section 35(3) of offences the BNSS, 2023 to an accused or any individual concerned, qua offences punishable with imprisonment up to 7 years, is the rule.
- e. Even if the circumstances warranting an arrest of a person are available in terms of the conditions mentioned under Section 35(1)(b) of the BNSS, 2023, the arrest shall not be undertaken, unless it absolutely warranted. f. Power of arrest under Section 35(6) read with Section 35(1)(b) of the BNSS, 2023, pursuant to a notice issued under Section 35(3) of the BNSS, 2023 is not a matter of routine, but an exception, and the police officer is expected to be circumspect and slow in exercising the said power."

14. Leading this Court to the operative portion of the impugned order dated 15.12.2025, wherein the learned CJM has in the course of cancellation of the said bail granted to the petitioner, Shri. Gopal Krishan Gour, has also directed that he be arrested and taken into custody in accordance with law, the learned Sr. counsel has contended that since the said petitioner has been arrested subsequently

on the basis of the said order, the process of arrest not done in accordance with law as has been pointed out herein, therefore, the impugned order cannot be sustained, and the same is to be set aside and quashed.

15. Another submission of the learned Sr. counsel is that the petitioner 2026:MLHC:102 is a senior citizen aged about 63 years of age, and as such, his arrest is contrary to the provision laid down under section 35(7) of the BNSS, which provides that no arrest shall be made without prior permission of an officer not below the rank of Deputy Superintendent of Police in the case of a person who is infirm or above 60 years of age.

16. Finally, the last limb of argument advanced by the learned Sr. counsel is that the petitioner is suffering from a number of ailments when he was diagnosed to be suffering from a typical chest pain (Angina Equivalent) and was admitted at ARHI Hospital, 11th Mile, Mawsmai, Jorabat on 10.02.2026 and discharged on 16.02.2026 with referral to the Cardiology Department, NEIGRIHMS for further management. He was accordingly admitted at NEIGRIHMS and is in the ICU at present. On his admission in NEIGRIHMS, his medical history shows that his case is one of hypotensive presented with classical angina chest pain, Acute Coronary Syndrome/Unstable Angina/NSTEMI. Therefore, on this ground too, the petitioner may be allowed to be enlarged on bail, further submits the learned Sr. counsel.

17. On the above premise, it is prayed that the petitioner/accused, Shri. Gopal Krishan Gour may be allowed to go on bail with any conditions to be imposed by this Court which will be abided with.

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18. Per contra, Mr. N.D. Chullai, learned AAG along with Mr. J.N. Rynjah, learned GA appearing for the State respondent has strongly opposed the prayer made and has submitted that the history of the case of the petitioner, Shri. Gopal Krishan Gour would reveal that he has been abusing the process of law time and again for which, he is not entitled to any leniency by this Court or by process of law.

19. On the application of the petitioner made in Crl.Rev.P. No. 15 of 2026, wherein the impugned order dated 15.12.2025(supra) was sought to be set aside and quashed, the learned AAG has raised the preliminary issue of maintainability of such application, inasmuch as, the same was preferred under Section 442 read with 438 of the BNSS which empowers the High Court to exercise revisional jurisdiction. However, this revisional power cannot be exercised where an interlocutory order is concerned as in the present case.

20. Further, elaborating on this, the learned AAG has submitted that Section 442 of the BNSS is para materia with Section 397 of the Code of Criminal Procedure and under Section 397, Sub-Section 2, it has been clearly provided that the powers of revision cannot be exercised in relation to any interlocutory order. An order granting or cancellation of bail is an interlocutory order, maintains the learned AAG. The case of Anil Kumar Bansal v. State, 2011 SCC Online Del 2647, para 17 and the case of Nilu Vs. 2026:MLHC:102 State, 1983 SCC Online Ori 149, para 5 has

been referred to in this regard.

21. The learned AAG has also submitted that the petitioner in question was granted pre-arrest bail by the Hon'ble Supreme Court vide Order dated 29.04.2025 with a stipulation that he shall fully co-operate with the investigation, and in case, he fails to do so, the State respondent is at liberty to move the Trial Court for cancellation of his bail.

22. In this respect, records would show that the said petitioner has flouted the order of the Apex Court by failing to co-operate with the investigating agency, which has prompted the State to file an application seeking cancellation of his bail, inter alia, on the ground that he has failed to appear before the Investigating Officer despite service of Notice, that he has also furnished incorrect and misleading contact details as far as his whereabouts are concerned, since he was not found at the address given by him to the authorities. He has also left the jurisdiction of the Court even when he was directed otherwise. This act of defendant cannot be overlooked by this Court while considering the prayer of the petitioner herein, and as such, the prayer made for grant of bail may be rejected, submits the learned AAG.

23. This Court has given considerable thought to the case of the parties herein, and has also taken into account the sum and substance of the argument 2026:MLHC:102 advanced by the learned counsels across the board.

24. The first issue to be considered is with regard to the contention of the learned AAG, as far as maintainability of the Criminal Revision Petition No. 15 of 2025. As has been submitted and borne out from the records, the order impugned in the said revision petition is the cancellation of bail of the petitioner in question. On the basis of the law and the authorities referred to by the learned AAG, the petitioner has not been able to counter the argument that the said impugned order is not an interlocutory order. The application made under Section 442 read with section 438 of the BNSS, which is para materia to Section 397(2) Cr.P.C cannot be entertained by this Court, the same being without jurisdiction.

25. Having maintained the impugned order dated 15.12.2025 passed by the learned CJM, Ri-Bhoi in Criminal Misc. No. 5 of 2025, what follows next is the implementation of such order. This Court having noticed that the direction of the learned CJM is for the accused to be arrested and taken into custody in accordance with law, therefore, it stands to reason that the relevant portion of law has to be complied with before the accused/petitioner is to be arrested.

26. The law of arrest stipulates that any person suspected to have committed an offence is liable to be arrested by the police even without a warrant as the case may be. However, another aspect of how arrest is to be affected is by way of issuance of a warrant of arrest.

27. As has been pointed out the procedure of arrest as per Section 79 Cr.P.C, is that, if a warrant directed to police officer is to be executed beyond the local jurisdiction of the court issuing the same, such police officer has to get the endorsement either from an Executive Magistrate or the Officer-In-Charge of the local police station before such arrest is affected. This position of law has been

reiterated in the said communication of the Ministry of Home Affairs, Government of India dated 16.05.2012 (supra).

28. In the case involving the petitioner herein, it is seen that after his bail was cancelled, and on his arrest being directed, firstly there is no warrant of arrest issued in this regard. Secondly, admittedly, the petitioner was arrested at the Guwahati Airport on 27.01.2026, in the State of Assam, but was shown arrest at the Khanapara in the State of Meghalaya, at about 8:00 PM. This could only be an attempt by the arresting authority to show compliance with due procedure, when in fact, there has occurred a procedural lapse at the time when the petitioner was arrested.

29. Another contention raised by the learned Sr. counsel for the 2026:MLHC:102 petitioner is that he was actually on his way to the concerned police station in compliance with the direction of the Hon'ble Supreme Court that he should make himself available before the investigating authorities, but on his way, he was arrested at the said airport. In this respect, this Court is of the view that the authorities concerned ought to have been mindful of the situation and should have allowed the petitioner to comply with the Supreme Court's order.

30. Be that as it may, the stage has reached to a point that the petitioner is now in custody and has therefore made a prayer for grant of bail primarily on the ground that he is a senior citizen of about 63 years old and under the provision of Section 35(7) of the BNSS, his arrest ought not to have been made without the prior permission of an officer not below the rank of Deputy Superintendent of Police.

31. The second ground relied upon by the learned Sr. counsel for the petitioner is that the petitioner is seriously ill, and as has been indicated herein above, is presently in the ICU Ward at NEIGRIHMS. So as to enable the family members of the petitioner to take care of his treatment which may require for his treatment in a private medical facility, therefore, on this ground too, it is prayed that bail may be granted to the petitioner.

32. It need not be reminded that in our country, the Constitution 2026:MLHC:102 provides procedures and safeguards to protect the personal liberty of a citizen, even one who is incarcerated in custody for having committed a criminal offence, though such right is limited by due procedure established by law. In a situation which may have some resemblance to the case in hand, the observations of the Supreme Court in the case of Kalyan Chandra Sarkar v. Rajesh Ranjan Alias Pappu Yadav & Anr, (2005) 2 SCC 42, para 18 may be noted herein as:

"18. It is trite law that personal liberty cannot be taken away except in accordance with the procedure established by law. Personal liberty is a constitutional guarantee. However, Article 21 which guarantees the above right also contemplates deprivation of personal liberty by procedure established by law. Under the criminal laws of this country, a person accused of offences which are non-bailable is liable to be detained in custody during the pendency of trial unless he is enlarged on bail in accordance with law. Such detention cannot be questioned as being violative of Article 21 since the same is authorised by law. But even persons accused of non-bailable offences are

entitled to bail if the court concerned comes to the conclusion that the prosecution has failed to establish a prima facie case against him and/or if the court is satisfied for reasons to be recorded that in spite of the existence of prima facie case there is a need to release such persons on bail where fact situations require it to do so. In that process a person whose application for enlargement on bail is once rejected is not precluded from filing a subsequent application for grant of bail if there is a change in the fact situation. In such cases if the circumstances then prevailing require that such persons be released on bail, in spite of his earlier applications being rejected, the courts can do so."

33. Since it is apparent that the petitioner/accused is not under medical 2026:MLHC:102 treatment at the prison facility, but is presently undergoing treatment at NEIGRIHMS, on this ground alone, this Court is inclined to allow the prayer made for grant of bail.

34. It is also reiterated that looking into the nature of the accusation and the severity of the punishment for the alleged offence, which would amount to the maximum period of 7 years, if convicted, this Court under the peculiar facts and circumstances of the case of the petitioner, is persuaded to allow the prayer made for grant of bail.

35. Accordingly, as far as his arrest in connection with Khanapara P.S. Case No. 25 (07) 2024 under Section 381/408/120B is concerned, the petitioner is to be immediately released on bail, by the Trial Court holding jurisdiction, if not in custody in other cases, on the following conditions:

- i) That he shall not abscond or tamper with the evidence or witnesses;
- ii) That he shall attend court as and when called for;
- iii) That he shall not leave the jurisdiction of India, except with due permission of the court concerned;
- iv) That he shall bind himself on a personal bond of 50,000/-

(Rupees fifty thousand) with one surety of like amount to 2026:MLHC:102 the satisfaction of the Trial Court; and

v) That he shall surrender his passport, if any to the Investigating Officer, who will hand over the same only if so directed under law or by an appropriate order of the Trial Court.

36. In view of the above noted observations, these petitions are accordingly disposed of. No costs.

37. Registry is directed to send back the Lower Court case record.

Judge