

IN THE COURT OF ADDITIONAL SESSIONS JUDGE
Fast Track 1st Court, Raiganj, Uttar Dinajpur

Present : Surajit Mandal
Additional Sessions Judge,
Fast Track Court-I, Raiganj
Uttar Dinajpur

Criminal Revision No. 5 of 2026 CIS 05 of 2026

Sk. Danesh QureshiPetitioner

Versus

State of West Bengal.....Opposite parties

Date of delivery of Judgment :- 25th day of March, 2026

J U D G M E N T

The instant revision has been filed by the petitioner/revisionist Danesh Qureshi challenging the order passed on 02.02.2026, by the Ld C.J.M., Uttar Dinajpur in GR case no. 275/2026, originating out of Raiganj PS case no. 105/2026 dtd. 29.01.2026.

It is the contention of the petitioner, that Ld C.J.M., Uttar Dinajpur had on 02.02.2026, after hearing both the sides in respect of the prayer by the petitioner, rejected his application for return of the 20 numbers of buffaloes, seized by the police.

Brief Facts:

It is the case of the petitioner/revisionist that the police had instituted a Suo Moto case over complaint filed by one ASI Abhishek Roy of Raiganj P.S. The complainant had lodged a written complaint at Raiganj PS and on the basis of such complaint, a specific case was registered being Raiganj PS case no. 105/2026 dtd. 29.01.2026 u/s. 325 BNS and section-11 of Prevention of Cruelty to Animals Act, 1960.

It was the complaint that the said police officer, on 29.01.2026 was performing Naka duty. He had received a

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secret source information regarding clandestine movement of buffaloes in a vehicle bearing registration number UP 70FT-7277. He had got information that the said vehicle was coming from Malda side and proceeding towards Karandighi side for the purpose of smuggling. The concerned officer attended to such information and he managed to detain the vehicle at Madhupur. On searching, it was found that the vehicle was loaded with 20 buffaloes. On demand, the accused who was in custody of the said vehicle produced “ live buffalo procurement permit “ issued by Dr. Naved Saifi, on behalf of Mash Agro Foods Ltd. having address 120 Chilamari, Pothia, Kishanganj, Bihar. The said company was engaged in the business of slaughtering and processing for the export of chilled/frozen boneless buffalo meat to various countries. The complainant had in his complaint stated that the buffaloes were being carried without maintaining rule 96 of “ transportation of animal rules 2001” and 125E of Central Motor Vehicle Rules 1989. Accordingly, the said complainant/police officer, seized the 20 buffaloes and arrested the accused. In his complaint, he had mentioned that the seized buffaloes were kept in zimma of one Rajesh Mahato.

It is the case of this petitioner that he is the owner of the buffaloes. He had filed an application before Ld CJM, Uttar Dinajpur praying for obtaining the custody of the buffaloes, pending litigation. But Ld CJM, Uttar Dinajpur vide his order dtd. 20.02.26 rejected his prayer.

Being aggrieved and dissatisfied with the order passed by the Ld CJM, Uttar Dinajpur the petitioner/revisionist has preferred this revision on the following grounds:-

Grounds for revision:

1) that the Ld Magistrate has in the exercise of his jurisdiction acted illegally and with material irregularity by disallowing the application for return of buffaloes to the petitioner/revisionist, without considering present facts and

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circumstances.

2) that the Ld Magistrate in exercise of jurisdiction did not take into consideration that the petitioner/revisionist is the actual owner of the buffaloes and is entitled to the interim custody of the buffaloes.

Points for Consideration

The only point for consideration is whether the Ld Ld CJM, Uttar Dinajpur has acted illegally or with any kind material irregularity while passing the impugned order which is under challenge.

Decision with Reasons

This revision has been preferred challenging the order passed by Ld Ld CJM, Uttar Dinajpur on 20-02-2026, in GR-275 of 2026, pertaining to Raiganj PS case no. 105/26 dtd. 29.01.26.

I have heard both sides. The state is represented by Ld P.P.

Ld advocate for the petitioner /revisionist argued that the Ld CJM, Uttar Dinajpur while considering the prayer of the petitioner failed to appreciate the fact that this petitioner is the actual owner of the cattle. He had purchased the 20 buffaloes and was transporting those buffaloes in accordance with law. He had maintained all necessary formalities and duly observed the rules and regulations and had not violated any law while transporting the animals.

Ld advocate further argued that this petitioner is not an accused in this case and he is entitled to get back the custody of the buffaloes. It is further argued that the IO had submitted a report in respect of the prayer for return of the seized buffaloes. In his report, the IO stated that nobody came before him to claim the buffaloes. Ld advocate further argued that Ld CJM, Uttar Dinajpur, in his order dtd. 20.02.26, has mentioned that IO submitted report wherefrom it appears that nobody came to claim the livestock.

Ld advocate further argued that at the time of hearing

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of his prayer before Ld CJM, Uttar Dinajpur, he had submitted a valid permit to transport the cattle. He is entitled to get custody of the buffaloes during the pendency of this case in accordance with the provision contained in section-503 of the BNSS. Ld advocate argued that the prosecution did not raise any objection in respect of the prayer of the petitioner. But Ld CJM, Uttar Dinajpur still refused to handover the custody of the buffaloes to the petitioner and rejected his prayer.

In this respect, Ld advocate referred to the decision of the Bombay High Court in Criminal writ petition no. 1813 of 2023 and 1818 of 2023. The Hon'ble Court in para -14 held that as it is not denied that the respondent no.2 is the owner of the cattle, in accordance with section-457 CrPC, custody of seized cattle was given to the owner. Ld advocate referred to another decision of "Bharat Amratlal Kothari Vs. Dosukhan Samadkhan Sindhi & Ors. [2009] INSC 1693 (4 November 2009)", where the custody of the seized animals on interim basis was handed over to the petitioners/owners. Ld advocate also referred to the Judgement of the Hon'ble Apex Court in writ petition (c) number 000422 of 2017. Ld advocate argued that the Hon'ble Apex Court decided with respect to the validity of the Prevention of cruelty to Animals (regulation of livestock market) rules 2017, and Prevention of cruelty to animals rules 2017. The Hon'ble Apex Court considered the fact that the Madras High Court had stayed the operation of the said rules and the Hon'ble Court in para-I held that the interim order of stay shall apply across the whole country.

Ld advocate argued that the rules that have been cited in this case is already stayed and therefore, are not applicable in this case.

Ld advocate finally argued that the petitioner has got a document from which it can be found that he had lawfully purchased the 20 buffaloes. The petitioner had also

submitted the original "*live buffalo procurement permit*", of the Company Mash Agro Foods Ltd. From such document it could be found that the permit is valid for Bihar and West Bengal and for two days from 28.01.2025. From such document it could be found that this revisionist Danesh Qureshi is a livestock animal supplier. The document also certifies that as per the norms of ministry of agriculture, animal husbandary department, there is absolutely no restriction for the movement of buffaloes under the Transportation of Animal Rules 1978 and section-47 to 56 of Prevention of Cruelty to Animals Act, 1960.

Ld advocate finally argued that the order passed by Ld CJM, Uttar Dinajpur at Raiganj is suffering from illegality and therefore, such order should be set aside.

Ld P.P representing the state argued that the prosecution had not raised objection in handing over the custody of the buffaloes to this petitioner/revisionist. Accordingly, the State does not have any argument in respect of this revisional application.

I have considered the detail hearing. I have perused the documents available which include the live buffalo procurement permit issued by Mash Agro Foods Ltd. I have also perused the impugned order under challenge.

Ld CJM, Uttar Dinajpur while rejecting the prayer of the petitioner, has referred to section 96 of the Transportaion of Animal Rules of 2001 and also rule 125E of the Central Motor Vehicle Rules 1989. Ld CJM, held that according to the prevention of Cruelty to Animals Act, 1960 and the Transport of Animals Rules 2001, only individual or organisation authorised by the animal welfare board of India or the Central Government can issue a valid certificate for transporting animals. A qualified veterinary surgeon must also certify that the animals are fit for transport. Ld CJM further held that as per the rules, Mash Agro Food Ltd, is a company which is required to comply with the regulation and

obtain documentation from authorised sources. The company does not have the authority to issue legal transport permit themselves. Ld CJM again noted that in this case, the accused were transporting the cattle without a valid certificate from the competent authority. Ld CJM further held that the Hon'ble Apex Court in the decision reported in 2020 SCC online SC 1325 held that interim custody of the animals ought not to be handed over to the accused. Ld CJM also referred to the decision of the Calcutta High court where it was held that during trial, interim custody of animals ought not to be handed over to the accused.

Ld CJM further opined the matter of custody of the animals is dealt with in rule-3 of the 2017 rules which provides for handing over custody to some institutions including animal welfare organisation. Ld CJM finally held that the Act and Rules nowhere provides that the animals can be handed over to the owner, as u/s.11(2) of the Act, the owner can also be treated as an accused.

In view of such observation, Ld CJM refused to hand over custody to the petitioner/revisionist.

After considering the order passed by Ld CJM, it appears that the Ld Magistrate has come to the conclusion that this petitioner/revisionist is the present owner of the buffaloes. But as there is possibility of considering the owner as an accused, Ld CJM declined the prayer of this petitioner.

In this respect, let us now draw attention to the order passed by Ld. CJM, Uttar Dinajpur. Ld. CJM referred to the citation of the Hon'ble Apex Court reported in 2020 SCC online SC 1325. The Ld Magistrate held that the Hon'ble court has opined that interim custody of animals ought not to be handed over to the accused person. In this respect, I would like to emphasise that this petitioner is not an accused in this case.

Ld Magistrate has further held that in terms of the provisions of the Act under Rules, pending investigation, the

custody of animals can be given to the category of organisation named in Rule 3 of 2017 Rules which includes animal welfare organisation and under no circumstances the seized animals can be released in favour of the owner. Ld Magistrate had referred section-11 (2) of the Act where the owner can also be treated as an accused.

In this respect, I would like to emphasise that section-11 (2) of the Act provides for the circumstances when the owner shall be deemed to have committed an offence. In this case, till this time, there is no material to presume that the owner may be tagged as an accused. Therefore, I refrain from forming any negative opinion against the owner at this stage.

Moreover, Ld Magistrate himself opined that according to the 2017 Rules, it is provided in Rule -3 that the custody of animal pending litigation has to be given to any infirmary, pinjrapole, SPCA, Animal Welfare Organisation or Gaushala. But in this case, prima facie materials show that interim custody of the animals have not been given to any of the organisations referred above. The police officer who had seized the animals has given interim custody to a person, whose Status not seem to be better than the owner.

At this stage, keeping in mind the other aspects involved in this case and considering the fact that the ownership of the cattle is not in dispute, I am of the view that interim custody of the buffaloes, pending the litigation, should be handed over to the petitioner.

Accordingly, the impugned order under challenge needs to be revisited.

In the circumstances, It is hereby,

Ordered

That the instant revisional application filed by the petitioner Danish Qureshi against the respondent State, challenging the order passed by Ld Chief Judicial Magistrate, Uttar Dinajpur in GR 275/26, on 02.02.2026, is hereby set

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aside.

The interim custody of the seized buffaloes is hereby granted/given to the petitioner Danish Qureshi, upon executing Zimma Bond of Rupees Two lakhs, subject to the satisfaction of Ld Chief Judicial Magistrate, Uttar Dinajpur, upon such terms and conditions as Ld CJM, Uttar Dinajpur, deem fit and necessary.

Let a copy of this judgment alongwith the TCR be sent to Ld Chief Judicial Magistrate, Uttar Dinajpur.

D/C by me,

(Surajit Mandal)
Addl. Sess. Judge,
F.T.C-I, Raiganj,
Uttar Dinajpur

Memo no. dated- 25.03.2026

Copy of this judgment is sent to Ld Chief Judicial Magistrate, Uttar Dinajpur for information and taking necessary action.

Addl. Sess. Judge,
F.T.C-I, Raiganj,
Uttar Dinajpur.

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