

GAHC010003512026



2026:GAU-AS:459

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

Case No. : Crl.Pet./20/2026

SHAHJAHAN ALI
S/O MD. DIDAR ALI, RESIDENT OF VILLAGE NATUN KATHMI, P.S. BOKO,
P.O. KALATOLI, DISTRICT KAMRUP R, ASSAM.

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR

Advocate for the Petitioner : MS A BEGUM,

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY

ORDER

Date : 09.01.2026

Heard Ms. A. Begum, learned counsel for the petitioner and Mr. M.P. Goswami, learned Additional Public Prosecutor for the respondent State of Assam.

2. In a First Information Report [FIR] registered on 21.06.2023 as Tezpur Police Station Case no. 538/2023 under Section 379/411 of the Indian Penal Code [IPC] read with Section 11 of the Prevention of Cruelty to Animal Act read with Section 13 [1] of the Assam Cattle

Preservation Act, the petitioner came to be arrested as an accused on 21.06.2023. On submission of charge-sheet before the Court of Sessions, Sonitpur, Tezpur, the case has been registered as Sessions Case no. 196/2023 and it stood transferred to the Court of learned Additional Sessions Judge [FTC], Sonitpur, Tezpur [‘the Trial Court’, for short] on 11.08.2023 for disposal.

3. When the case was taken up by the Trail Court on 14.08.2023, the petitioner and the other four charge-sheeted accused persons were produced from custody. On filing of an application for bail on behalf of the petitioner, the same was allowed considering the fact that the petitioner was in custody for about 60 [sixty] days.

4. On 28.08.2023 charges were framed against the five accused persons including the petitioner, under Sections 379/411, IPC r/w Section 11 of the Prevention of Cruelty to Animals Act, 1960 r/w Section 13[1] of the Assam Cattle Preservation Act, 2021. As the accused persons pleaded not guilty, the case proceeded to the stage of evidence and the Trial Court issued summons to the witnesses. On the subsequent date, 11.10.2023, the petitioner was present before the Trial Court and on the same date, P.W.1 was examined and discharged.

5. However, on the subsequent dates, 30.01.2024, 12.03.2024, 30.04.2024, 27.06.2024 & 18.08.2024, the petitioner was not present in person. Petitions were filed on his behalf for exemption of his appearance on those dates by a learned counsel and the same were allowed by the Trial Court. In the meantime, on 27.06.2024, the P.W.2 was examined, cross-examined and discharged.

6. But, on and from 03.10.2024, the petitioner neither appeared in person before the Trial Court nor he was represented by his learned engaged counsel before the Trial Court. On 03.10.2024, the Trial Court issued warrant of arrest [NBWA] against the petitioner. Similar orders were passed on the subsequent dates, 16.11.2024, 02.01.2025, 01.02.2025, 10.03.2025, 10.04.2025, 21.05.2025, 08.07.2025, 21.08.2025, 30.10.2025 & 22.12.2025.

7. It is in the above backdrop the petitioner is before this Court by the present criminal petition under Section 528, Bharatiya Nagarik Suraksha Sanhita, 2023 [BNSS].

8. It is urged as a ground on behalf of the petitioner that due to miscommunication between the petitioner and his learned engaged counsel, the petitioner could not appear before the Trial Court on and from 03.10.2024. Such ground is found not satisfactory. However, an expeditious conclusion of the trial is in the best interests of the prosecution, the victim, the witnesses and the accused persons.

9. The learned counsel for the petitioner has submitted that the petitioner is ready and willing to participate in the trial and there will not any further default on his part in appearing before the Trial Court. It is further urged on behalf of the petitioner that by his regular appearance, he will cooperate for an expeditious conclusion of the trial.

10. It is submitted that the petitioner has an apprehension of being taken into custody before the next date of the trial, that is, 24.02.2026 on the basis of the warrants of arrest [NBWAs] issued against him by the Trial Court from time to time. Taking into consideration the interest of an expeditious trial, this Court is of the view that the warrants of arrest [NBWAs] issued against the petitioner on and from 03.10.2024 onwards can be kept in abeyance till 24.02.2026 so as to enable the petitioner to appear before the Trial Court without the apprehension of being taken into custody on the basis of the warrants of arrest [NBWAs] issued against him. It is ordered accordingly.

11. It is further observed that in the event the petitioner appears before the Trial Court on 24.02.2026 and files an application seeking his release on bail, the Trial Court shall consider the same in accordance with law and on its own merits.

12. This order disposes of the criminal petition.

JUDGE

Comparing Assistant