

GAHC010020882026



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

Case No. : Crl.Pet./134/2026

MD NESHAR
SON OF MD. BASHIR, C/O-MD. CHAMED ALI, PROP BABA LOGISTICS
RESIDENT OF HOUSE NO.14, GANDHIBASTI, LALMATI ROAD,
SILPUKHURI, CHANDMARI, GUWAHATI-03 DISTRICT- KAMRUP (M),
ASSAM.

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM.

Advocate for the Petitioner : MR. SURAJIT DUTTA, MR. N I KHAN

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MRS. JUSTICE SHAMIMA JAHAN

ORDER

13.02.2026

Heard Mr. S. Dutta, learned Senior assisted by Mr. N. I. Khan, learned counsel for the petitioner. Also heard Mr. K. Baishya, learned APP, Assam.

By this application filed under Section 528/442 of the BNSS, 2023 read with Article 227 of the Constitution of India, the petitioner has challenged the order dated

14.11.2025 passed by the Chief Judicial Magistrate, Kamrup (M), Guwahati in connection with STF PS Case No. 04/2025, under Sections 316(2)/316(5)/318(4)/336(3)/340(2)/317(2) of Bharatiya Naya Sanhita by which the learned Court had rejected the prayer of zimma of seized goods/articles of the petitioner.

The case starting with the lodging of the Ejahar wherein it was revealed that a transporter company, namely, Baba Logistic and few other transporters were charged with movement of taxable goods without valid GST documents and the petitioner is the proprietor of M/s Baba Logistics. It was further stated in the said FIR that goods were found being unloaded from the train into tracks bearing various registration numbers carried by Baba Logistics and that at the time of interceptions, the drivers of the said truck could not produce valid GST documents such as E-Way Bill, Tax Invoice, Manifest, Consignment Note, Railway Receipt etc. It is also averred that although some documents were later presented but the drivers could not present any documents against some of the goods with GST norms. Hence for proper verification, the authorities detained the vehicles and the goods and kept the same in the Assam, State Warehousing Corporation, Amingaon wherein the goods are still lying there.

Mr. Dutta, learned Senior Counsel for the petitioner submits that they had filed an application before the Chief Judicial Magistrate, Kamrup (M) for custody of the said articles, mainly on the ground that they had paid the penalty which is 200% of the tax amount to the authorities concerned under Section 129 of the GST Act, 2017. The learned Trial Court vide order 14.11.2025 had observed that on an earlier application being filed for the said Zimma the STF authority had not handed over the articles to the petitioner and the petitioner had approached for the second time before the said Court.

It is stated by the petitioner that by order dated 22.08.2025 although the petitioner had the order for giving zimma but the IO had given zimma only for 184 packages out of 402 packages and for the said 184 packages, the petitioner has paid

Rs.1,25,032/- rent to the Assam State Warehousing Corporation for the goods being kept in the said godown and for the rest of the 218 packages, the petitioner has paid penalty imposed by the GST authority.

The petitioner in spite of paying the penalty thereof were not given the custody which the learned counsel for the petitioner raised the grievance before the said Court. However, the said Court on a finding that no documentary evidence was produced to establish that Baba Logistic is the legal owner of the said goods and that they could not furnish any valid documents in support of the seized goods, the same were not given in zimma to the petitioner.

Mr. Dutta, the learned Senior Counsel for the petitioner submits that Baba Logistic is a transport company and it has been settled by the Supreme Court that articles not only can be given to the owner but also to the person from whom it is seized and further by virtue of Section 129 of the GST Act, it is provided that once the penalty is paid by the Company, concerned articles needs to be released to the said Company and as such, Mr. Dutta, the learned counsel for the petitioner prays that the articles may be given in custody to the petitioner. In fact the counsel submits that it should be released to the petitioner as per Section 129 of the GST Act.

Mr. K. Baishya, learned APP however prays that he may be given one last opportunity to get instruction, in the instant case. As such, this Court allows him some time to get the necessary instructions, list this matter on **20.02.2026** for the necessary instructions and further orders.

JUDGE

Comparing Assistant