

GAHC010023862026



2026:GAU-AS:2977

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

Case No. : Crl.Pet./186/2026

MAINUDDIN SHEIKH
S/O LATE AKBAR ALI
VILL- NAGARJHAR, P.S. MANIKPUR, DIST. BONGAIGAON, ASSAM, PIN-
783380.

VERSUS

THE STATE OF ASSAM AND ANR
REP BY THE PP, ASSAM

2:SHAHA ALOM ALI
S/O KHAYBAN ALI
VILL- NAGARJHAR
P.S. MANIKPUR
DIST. BONGAIGAON
ASSAM
PH. NO. 8638424925

Advocate for the Petitioner : MR. M KHAN, MS J AKTAR

Advocate for the Respondent : PP, ASSAM,

BEFORE
HON'BLE MRS. JUSTICE MITALI THAKURIA
ORDER

Date : 26.02.2026.

Heard Mr. M. Khan, learned counsel for the petitioner. Also heard Mr. P. Borthakur, learned Addl. P.P., Assam appearing on behalf of the State

respondent No. 1.

This is an application under Section 528 of the BNSS, 2023 against the impugned order dated passed by the learned Sessions Judge, Bongaigaon in Sessions Case No.1(M)/2026, whereby the prayer for zimma of the seized vehicle of the present petitioner was rejected.

It is submitted by Mr. Khan, the learned counsel that the present petitioner was not arrested during the time of investigation of the case, however on the process of a subsequent FIR, he was arrested but at present he has not been forwarded as an accused and no case is pending against him. He is the registered owner of the vehicle which has been seized in connection with this case on 28.09.2025 and since then, the vehicle is in police custody and hence, there are every probabilities of damage of the vehicle, if it is kept further in open place. More so, the case has already been charge sheeted after completion of the investigation. Mr. Khan further submitted that the charge sheet of this case was filed on 21.12.2025 and after filing of the charge sheet, on 03.01.2026 a petition was filed for zimma was filed before the learned Sessions Judge, Bongaigaon and vide order dated 29.01.2026, the prayer for zimma was rejected by the learned Court below.

Mr. Khan, the learned counsel for the petitioner relied upon two decisions of the Hon'ble Apex Court in the case of: (1) Sunderbhai Ambalal Desai and C.M. Mudaliar vs. State of Gujarat, reported in (2002) 10 SCC 283 and (2) Bishwajit Dey vs. State of Assam in Criminal Appeal No.87/2025 (arising out of SLP (Crl.) No.13370/2024) respectively.

Accordingly, Mr. Khan submitted that the present vehicle is in no way related with the alleged offence and even if it was used for commission of the offence, but the case has already been charge sheeted and thus, there may not be any necessity for keeping the vehicle any further in the police custody. The petitioner being the registered owner of the vehicle, the zimma may be granted in favour of the petitioner with any terms and conditions deemed fit and proper by the learned Trial Court.

Mr. Borthakur, the learned Addl. P.P., Assam submitted in this regard that from the report of the I.O., it is seen that the entire crime/the murder of the deceased was committed inside the vehicle in question and the said vehicle has already been sent for forensic examination and from the report itself it is seen that the vehicle was directly used for commission of the offence and it is a material exhibit in the present case. Mr. Borthakur, the learned Addl. P.P., Assam further submitted that the relevant forensic examination report and the evidentiary procedure have also conducted during the trial of this Court. The learned Addl. P.P. Assam accordingly raised objection and submitted that the vehicle may not be released on zimma at this stage as it may be required at the time of trial.

Hearing the submissions made by the learned counsels for both sides, I have also perused the case record, annexure as well as the report of the I.O., which has been filed before the Court today.

It is an admitted fact that the case has already been charge sheeted on 21.12.2025 and at present, the case is pending for trial. At the same time, it is also a fact that after filing of the charge sheet, a petition for zimma was moved

before the learned Sessions Judge, Bongaigaon on 29.01.2026 but the same was rejected. It is also a fact that the vehicle is in custody of police since long and there is probability of damage of the vehicle if it is kept further in the police custody. But from the report of the I.O., it is seen that the entire vehicle is marked as material exhibit and some forensic evidences are also related with the vehicle and hence, I find it proper to direct the present petitioner to move a fresh application for zimma of the vehicle before the learned Trial Court below, which will be the best Court to judge as to whether the vehicle will be further required, which is stated to be the material exhibit in the case and in the event, if the petition is filed, whether any procedure can be adopted for release of the vehicle without hampering with the evidence of the prosecution, as it is stated to be material exhibit by the I.O.

With the above observation, the present petition for zimma of the vehicle is hereby disposed of with a direction to the petitioner to move a fresh application for zimma of the vehicle before the learned Trial Court below and an order will be passed accordingly, considering all aspects of the case, as per the law.

The copy of the report furnished today by the I.O. be kept in the case record, by marking the same as 'X'.

JUDGE

Comparing Assistant