

GAHC010030132026



2026:GAU-AS:3115

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

Case No. : Crl.Pet./222/2026

INAMUL HUSSAIN
S/O SAKAYAT HUSSAIN, R/O HATIGAON, NOTBOMA, PRAGATI NAGAR,
SIJUBARI, HOUSE NO 19, P.S. HATIGAON, GUWAHATI 38, DIST. KAMRUP M,
ASSAM.

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PP, ASSAM.

Advocate for the Petitioner : MR S H SIKDAR, MR. A DEKA, MS N J BEGUM

Advocate for the Respondent : PP, ASSAM,

BEFORE
HON'BLE MRS. JUSTICE MITALI THAKURIA

ORDER

27-02-2026

Heard Mr. S. H. Sikdar, learned counsel for the petitioner and Mr. P. S. Lahkar, learned Additional Public Prosecutor, Assams.

2. This is an application filed under Section 528 BNSS against the impugned order dated 28.01.2026, passed by the learned JMFC, Kamrup (M), Guwahati in

Zimma Petition No.486/2025 arising out of Hatigaon P.S. Case No. 09/2025 under Sections 281/127(1)/117(2)/74/3(5) of BNS, whereby the zimma of the vehicle i.e., Swift Dzire bearing Registration No. AS-01-EV-8248 seized in connection with the aforesaid P.S. Case was rejected.

3. It is submitted by Mr. Lahkar, learned APP that the I.O. could not furnish the report which was called for he was busy in other duty.

4. Mr. Sikdar, learned counsel submitted in this regard that in the case, the petitioner is not an accused and he is the registered owner of the said vehicle. At the time of rejection of the earlier bail application, the case was at the initial stage of investigation and the other accused petitioners were also to be arrested by police. However, during the pendency of the present petition, the accused persons have already moved an anticipatory bail application and this Court vide order dated 20.02.2026, passed in AB No. 333/2026 granted pre arrest bail to the other accused of the case with the observation that it is a matter only related to road traffic accident.

5. Mr. Sikdar, learned counsel accordingly submitted that further custody of the vehicle is not at all required, rather there is probability of damage of the vehicle if it is kept in the open space in the police station further.

6. Mr. Lahkar, learned APP submitted that though from the FIR it is seen that it is basically a case of accident, but there are some other criminal incrimination against the accused persons in the said FIR and accordingly, he submitted that the vehicle may be required for further custody for the purpose of investigation.

7. I have heard the submissions made by the learned counsel for the parties and I have also perused the case record and the order passed by the learned Trial Court rejecting the prayer for zimma of the vehicle.

8. It is seen that at the time of rejection of the zimma petition, the I.O.

submitted a report stating that further custody of the vehicle may be required for the purpose of investigation of the case, as it was at a very initial stage. But it is seen that the vehicle is in custody of the I.O., since 14.01.2026 for more than one and half month.

9. Further from the ingredients of the FIR it is seen that it was basically an accident case, wherein subsequently some allegation has been brought against the occupant of the vehicle, wherein the informant's side was alleged to have been assaulted by the accused. But considering the nature of offence alleged against the present petitioner, I find that further custody of the vehicle may not be required for the purpose of investigation. More so, as stated by the learned counsel for the petitioner that he is not an accused in this case till date.

10. Considering all aspects of the case, nature of the offence as stated in the FIR and other aspects of the case, I find that the further custody of the vehicle may not be required for the purpose of the investigation.

11. In view of the judgment of the Hon'ble Apex Court passed in the cases of **Sunderbhai Ambalal Desai and C. M. Midaliar vs. State of Gujarat**, reported in **(2002) 10 SCC 283**, this Court is of the opinion that zimma of the vehicle i.e., Swift Dzire bearing Registration No. AS-01-EV-8248 can be given to the petitioner after verifying all the documents and also verifying regarding ownership of the vehicle.

12. In view of above, this criminal petition accordingly allowed.

13. Accordingly, the impugned order dated 28.01.2026, passed by the learned JMFC, Kamrup (M), Guwahati in Zimma Petition No.486/2025 arising out of Hatigaon P.S. Case No. 09/2025 under Sections 281/127(1)/117(2)/74/3(5) of BNS is hereby set aside and quashed.

14. The petitioner is further direction to file an appropriate application for Zimma

of the vehicle as stated above, which may be considered by the learned Trial Court and order of zimma of the vehicle will be passed accordingly by verifying all the documents and ownership of the same.

JUDGE

Comparing Assistant