

GAHC010078602025



2026:GAU-AS:3053

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

Case No. : Crl.Pet./448/2025

NIKHIL AGARWAL
S/O- SRI ASHOK AGARWAL,
R/O TAYAL BHAWAN,
FEEDER ROAD, PARBATIA, P.O., P.S.AND DIST. TINSUKIA, ASSAM-786125

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR. B D KONWAR SR. ADV., MS S JAIN,MR P DOLEY,MR H AGARWAL

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MRS. JUSTICE SHAMIMA JAHAN

ORDER

27.02.2026

1. Heard Mr. B. D. Konwar, learned senior counsel assisted by Mr. H. Agarwal, learned counsel for the petitioner. Also heard Ms. A. Begum, learned Additional Public Prosecutor for the State and Mr. M. Hussain,

learned counsel for the informant.

2. By this application, the petitioner has prayed for custody of the cash amount to the tune of Rs.62,80,890/- seized from the petitioner in connection with Tinsukia Police Station case No. 122 of 2024, registered under Section 120B/406/420 of the IPC, read with Section 13 as well as 14 of the Assam Games and Betting Act, 1970. The petitioner has also challenged the order dated 22/1/2025, passed by the Learned Sub Divisional Judicial Magistrate (Sardar) Tinsukia rejecting the petitioner's application for the said custody.

3. The case started with the lodging of the FIR on 19/4/2024, wherein it was stated that on 18/04/2024, during evening hours, the police personnel received an information about illegal betting related to IPL cricket matches through various electronic platform at the Tinsukia town and adjacent areas by some anti social elements known as "bookie" who invited common people to participate in the said online betting.

4. In connection with the said information, the police personnel conducted raid and apprehended one gambler, Shri Supreet Biswas, who confessed of betting into IPL cricket tournament and who furnished few names of his off line bookies. The police on receipt of the said information, registered the case. The petitioner was however, not named in the said FIR but during investigation on 02/05/2024, an amount of Rs.62,80,890/- along with one mobile phone was seized from the petitioner.

5. Learned senior counsel for the petitioner submits that the amount found in the house of the petitioner, namely Nikhil Agarwal, is not an

unaccounted amount and to substantiate the fact, he submitted that the petitioner is the proprietor of a firm namely, MS Ganpati Plastic and being a businessman, he carries money with him. By showing the income tax returns as well as the cash credit limit maintained by the petitioner in the bank, the learned counsel has demonstrated the financial capability of the petitioner.

6. The learned counsel by showing the income tax returns had stated that at one instance the petitioner had cash in hand both accounted and verified to the tune of Rs.13,38,716/-. In paragraph 4 of his petition he had stated that the said amount is not the proceeds of the crime but the same are legal and accounted money and the details of the cash amount has been enunciated in the said paragraph.

7. The learned counsel has also placed a judgment passed by the High Court of Orissa in *Lakshman Srinivasan versus Republic of India*, wherein the Hon'ble High Court had held that in the cases involving seized currency, Courts may consider its release upon conditions like taking photographs, preparing detailed panchanama signed by all the parties and taking appropriate bonds, as has been held by the Hon'ble Supreme Court in various decisions.

8. On the other hand, Mr. B. Sharma, learned Additional Public Prosecutor for the state has placed a report given to him by the officer in charge of the Tinsukia police station wherein it is stipulated that on the statement of the main accused person, i.e. Shri Bikash Balia, search was conducted in the house of the petitioner and the amount of money was seized, which according to the Investigating Officer, the same was unaccounted for and the petitioner could not reveal any known source of

income in respect of the said money. The report also reveals that whether the said money was due to some money laundering or fraud along with tax evasion, communications has been sent to the Enforcement Directorate on 04/05/2024 as well as to the Income Tax Department on the same day for taking necessary action. But till date, the information had not come from the said departments

9. On consideration of the submissions made by the parties, this Court states the following:

The communication given to the Enforcement Directorate as well as to the Income Tax Department way back in the month of May, 2024 has been lying in the said departments and no report has been sent by them although more than a year has elapsed. The money has been seized on 02/05/2024 and the same has been kept in the Treasury since then.

10. It has been held by the Apex court that seized articles may not be kept in the custody of the authorities concerned for a long period and the same should be given in custody to the owner or from whom it is seized forthwith by the Magistrate concerned by taking necessary bond and by making a detailed panchanama and by completing other formalities as has been held by the Apex Court.

11. In view of the same, the cash amount of Rs.62,80,890/-seized in connection with Tinsukia Police Station, case No. 122 of 2024 be given in custody to the petitioner by the Arresting Authority by taking high resolution color photographs as well as by preparing a detailed panchanama, if not already prepared as well as by taking appropriate bonds and other conditions as put forth by the Arresting Authority.

12. Accordingly, the criminal petition stands disposed of.
13. The report submitted by Mr. B. Sharma, learned Additional Public prosecutor be made a part of the records.

JUDGE

Comparing Assistant