

GAHC010108492025



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

Case No. : Crl.Pet./607/2025

MUKIB AHMED
SON OF SAHABUDDIN ALI
R/O SIVASAGAR DIGHAL DARIALI, P.O. DIMOUMUKH DIST. SIVASAGAR,
ASSAM,
PIN-785640, PH. NO.9101254608.

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR. B K GOGOI, MR. R B GOHAIN

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MR. JUSTICE PRANJAL DAS

ORDER

Date : 25.09.2025

Heard Mr. R. B. Gohain, learned counsel for the petitioner. Also heard Mr. D. P. Goswami, learned Additional Public Prosecutor for the State of Assam.

2. The petitioner has filed the instant proceeding invoking the powers under

528 of the Bharatiya Nagarik Suraksh Sanhita (BNSS),2023 aggrieved by order dated 03.01.2025 passed by the learned Additional Chief Judicial Magistrate, Dhemaji in PRC Case No. 98/2024 (arising out of Dhemaji P.S. Case NO. 45/2023- under Sections 379/411/34 of IPC read with Section 13(1) of the Cattle Preservation Act, 2021 and 11(1)(d) of the Prevention of Cruelty to Animal Act, 1960. By the said impugned order, the prayer of the petitioner for Zimma of Maruti Swift Desire vehicle bearing Registration No. As 04N 2555 seized in connection with the aforesaid P.S. Case was rejected.

3. The petitioner Mukib Ahmed, claims to be the registered owner of the said vehicle.

4. Mr. R. B. Gohain, learned counsel for the petitioner has drawn attention to the Annexure-C of this petition, which is a copy of the registration certificate of the vehicle indicating the name of Mukib Ahmed. He submitted that the petitioner is at a loss to know as to why his vehicle was seized in connection with this case, which was pertaining to carrying of cattle in two truck in violation with the Cattle Preservation Act, 2021 of the State.

5. The case has been charge sheeted, a copy of which has been annexed and the present petitioner is not named in the charge sheet.

6. Heard learned Addl. P.P. though the updated Zimma report was called for

but it has not been received. Nevertheless the petitioner is aggrieved by the impugned order passed by the learned Court below at that time.

7. The charge sheet is dated 29.02.2024 and the impugned order being passed on 03.01.2025 - the learned court below was seized of the completion of the investigation at the time of passing the impugned order. It is stated therein that the claimed items are necessary for the purpose of trial and accordingly prayer for interim custody was rejected.

8. Learned counsel submits that several petitions were filed seeking Zimma of various items and these were rejected by this order.

9. The petitioner has adduced prima facie materials about his ownership of the vehicle in question. He is not an arrayed an accused for facing the trial. The material object in question is a vehicle liable to deterioration. Keeping in mind all the aforesaid facts and circumstances and the principles laid down in the case of ***Sunderbhai Ambalal Desai & Ors. Vs. State of Gujarat (2002) 10 SCC 283***, I deem it fit in the interest of justice to allow this petition interfering with the order of the learned Court below.

10. Therefore, setting aside the said order, it is directed that the petitioner shall be given interim custody of the Maruti Swift Desire vehicle bearing Registration No. AS 04N 2555, subject to the usual verification upon a bond of

Rs. 2.5 lakhs to the satisfaction of the concerned authority/ learned court. The following conditions are imposed : (i) The petitioner shall produce the vehicle before the trial Court during trial if necessary, (ii) The petitioner shall not change the colour and model of the vehicle without taking permission of the learned trial Court. (iii) The petitioner shall not sell the vehicle taking permission of the learned trial Court.

11. The instant Criminal petition stands allowed and disposed of.

JUDGE

Comparing Assistant