

GAHC010123122025



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

Case No. : Crl.Pet./664/2025

SHRI HIROK JYOTI PAUL
S/O- HIRENDRA CHANDRA PAUL, PERMANENT RESIDENT OF
-HAILAKANDI TOWN, WARD NO 6, P.O., P.S.- AND DIST.-HAILAKANDI, PIN-
788151, ASSAM

VERSUS

THE STATE OF ASSAM AND ANR
REPRESENTED BY THE PP ASSAM

2:RAJIB ROY
ACS
ADDL. DEPUTY COMMISSIONER
DC OFFICE
SILCHAR
CACHAR
ASSA

Advocate for the Petitioner : MR. A BHATTACHARYA, S. BASAK, MR. S DEY, MS ANKITA SAHARIA, MR S PAUL, MR. A BHATTACHARJEE, MS K TALUKDAR, MS. K MALAKAR

Advocate for the Respondent : PP, ASSAM, MR. DARAK ULLAH, AMICUS CURIAE (R-2)

**BEFORE
HONOURABLE MRS. JUSTICE SHAMIMA JAHAN**

ORDER

10.02.2026

Heard Mr. A. Bhattacharya, learned counsel for the petitioner. Also heard Mr. D. Ullah, learned Amicus Curiae for the respondent No. 2 and Mr. M.P. Goswami, learned Addl. Public Prosecutor for the State.

By this application, the petitioner has challenged the Order dated 05.12.2024, by which the learned Court of SDJM(S), Cachar, Silchar took cognizance of offence under Section 120(B)/420/406/409 of IPC qua the petitioner. The petitioner has also challenged the Charge-sheet filed in connection with Borkhola P.S. Case No. 111/2018 qua the petitioner.

It is noticed that the petitioner, who was a contractor was awarded with the contract work of repairing a road namely the Silchar - Jayantipur Road under the State Disaster Relief Fund stretching to a road measuring 1.66 kms. In pursuance to the said contract order, the petitioner started the work on 09.10.2013 and completed the work on 30.10.2014. Thereafter, on 28.10.2016, an FIR was lodged against the petitioner and another stating inter alia that the road condition was very bad, which was apparently referring to the year 2016. The Police registered the case and in the year 2016, subsequently transferred the case to Borkhola Police Station and upon completion of investigation, submitted Charge-sheet against the petitioner and another on 27.02.2024 and subsequently, this aforesaid cognizance order was passed.

It is noticed that although the TCR has been received alongwith the Case Diary, but it is averred by Mr. M.P. Goswami, learned Addl. Public Prosecutor that the Case Diary is illegible and has prayed that a proper scanned copy of the Case Diary may be called for. Accordingly, it is directed that the Registry may requisition the proper scanned copy of the Case Diary from the Court of SDJM(S), Cachar, Silchar.

Mr. M.P. Goswami, learned Addl. Public Prosecutor for the State however submits that an enquiry was made in the instant case and it was found that the repairing was not done properly and as such, the FIR was lodged and Charge-sheet was submitted against the petitioner as well as the co-accused. He also submits that the cognizance for the said offence against the petitioner and the co-accused was rightly taken in the facts of the said case. He also submits that as far as the stay of the instant case is concerned, it is held by the Hon'ble Apex Court that stay should be sparingly granted.

Mr. D. Ullah, learned Amicus Curiae for the respondent No. 2 also submits that the FIR has been rightly lodged since the repairing work was not done properly by the petitioner.

I have heard the learned counsels for the parties and have noticed that the instant case belongs to the year 2013 and 2014 when the repairing of the road was completed and after 2 (two) years, i.e., in 2016, an FIR was lodged that the road was very bad and after 8 (eight) years, the Charge-sheet was submitted.

This Court therefore deems it fit that the Order dated 05.12.2024, by which cognizance was taken be stayed qua the petitioner till the next returnable date.

List the matter on **17.03.2026.**

JUDGE

Comparing Assistant