

GAHC010213762025



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

**Case No. : Crl.Pet./1177/2025**

AJAY PRADHANI  
SON OF HIRA LAL PRADHAN, R/O- BUNGALOW NO B6, RAILWAY  
OFFICERS COLONY, NEAR DRM OFFICE TINSUKIA, P.O. AND P.S.  
TINSUKIA, ASSAM, PIN-786125

VERSUS

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

2:THE INSPECTOR OF POLICE BUREAU OF INVESTIGATION (E.O.)  
SHRIMANTAPUR  
GUWAHATI  
ASSA

**Advocate for the Petitioner** : MR. S C BISWAS, MS P HALDER,MR P KATAKI,MRS R  
BEGUM,MS. S. CHANDA,MS. K L R YANTHAN,MS. U NANDA

**Advocate for the Respondent** : PP, ASSAM,

**BEFORE**  
**HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA**

**ORDER**

**22.09.2025**

**1.** Heard Mr. P. Kataki, the learned counsel for the petitioner. Also heard Mr.K.K. Parasar, the learned Additional Public Prosecutor appearing

for the State of Assam.

**2.** This application under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 has been filed by the petitioner, namely, Ajay Pradhan, impugning the order dated 19.11.2024, passed by the learned Additional Chief Judicial Magistrate, Kamrup(M) in PRC Case No. 486/2020, whereby, cognizance of offence under Sections 120B/409/379/411 of the Indian Penal Code, 1860 read with Sections 32/33/34/40/41/49 of the Assam Forest Rule (Amended) Act, 1995 was taken against the present petitioner.

**3.** The learned counsel for the petitioner has submitted that the aforesaid PRC Case was registered on filing of an FIR by one Aditya Kr. Khaund, DCF, BI(EO), Assam before the Officer-in-Charge of BI(EO) Police Station, *inter alia*, alleging that on the basis of a preliminary enquiry, which was initiated against the present petitioner, it was found that the present petitioner and his contractors/firms have violated the aforesaid provisions of Assam Forest Rule and evaded forest royalty and VAT to the tune of Rs. 4,29,43,407.00/-.

**4.** The learned counsel for the petitioner has submitted that in the original charge sheet after completion of the investigation, the charge sheet was filed and in the original charge sheet, the petitioner was not named as an accused. However, in the supplementary charge sheet, the petitioner was arrayed as an accused.

**5.** He further submits that though the petitioner was posted as Deputy Chief Engineer, Con-II, under N.F. Railway, Lumding Railway

Division, however, no prosecution sanction was obtained. He further submits that the Investigating Officer has wrongly interpreted the Judgment of the Apex Court in the case of "***Subramanian Swamy Vs. Manmohan Singh And Another***" reported in "***(2012) 3 SCC pg 64***" inasmuch as, it interrogated the said judgment to for giving that if the prosecution sanction is not granted within 3(three) months from the date of seeking it, it shall be deemed to have been granted.

**6.** The learned counsel for the petitioner has submitted that in the aforesaid Judgment, the Apex Court had only observed that the parliament should consider introduce necessary amendment in Section 19 of the PC Act with a dealing provision.

**7.** The learned counsel for the petitioner has submitted that accordingly, Section 19 of the Prevention and Corruption Act, with a deeming provisions, 1988 was amended, wherein, it was provided that prayer for granting prosecution sanction shall have to be made within a period of 3(three) months from the date of its receipt. However, no such deeming provision was incorporated in the PC Act, 1988.

**8.** The learned counsel for the petitioner has submitted that in the instant case, the offence alleged against the petitioner are under Indian Penal Code, 1860 as well as under the Assam Forest Regulation, 1891. He further submits that the deeming provisions on failure of the grant of sanction within a period of 3(three) months has been incorporated in Section 218 (1) in second proviso to Section 218(1) which provides that the government shall take the decision regarding grant of sanction within a period of 120 (one hundred twenty) days from the date of receipt of

sanction and in case it fails to do so, the sanction shall be deemed to have been accorded by such government.

**9.** The learned counsel for the petitioner has submitted that the deeming provisions as incorporated in the aforesaid proviso to Section 218(1) of the BNSS, 2023, it came into force on 1<sup>st</sup> June, 2023, whereas, supplementary charge sheet was filed against the present petitioner on 31.10.2020, i.e. much prior to the coming into force of provisions of Section 218(1) of the BNSS, 2023.

**10.** He, therefore, submits that in the instant case, the order of taking cognizance against the present petitioner is bad in law inasmuch as no prosecution sanction was there for taking such cognizance against the present petitioner.

**11.** The contentions raised by the petitioner deserves consideration and hence, let the scanned copy of the Trial Court records as well as scanned copy of the connected Case Diary be called for from the Trial Court.

**12.** Let this case be listed on 6<sup>th</sup> November, 2025.

**13.** In the meanwhile, considering the fact that on perusal of the materials available on record, it appears that there was no prosecution sanction for initiation of criminal proceedings against the present petitioner when the charge sheet has been filed and the deeming provisions contained in Section 218 of the BNSS, 2023 came into force only on 1<sup>st</sup> July, 2023, i.e. much after the date of filing of the

supplementary charge sheet against the present petitioner. Hence, till next returnable date, further proceeding of PRC Case No. 486/2020 shall remain stayed.

**JUDGE**

**Comparing Assistant**