

GAHC010243892025



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

Case No. : Crl.Pet./1370/2025

SHRI MUKUMONI BORAH ALAIS JAGAT
S/O SHRI BHOLANATH BORAH, R/O-BARUAH TINALI, P.O. AND P.S. -
DULIAJAN DIST.- DIBRUGARH, ASSAM.786602

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. B K DAS, MR H P GUWALA

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MRS. JUSTICE SHAMIMA JAHAN

ORDER

Date : 27-02-2026

Heard Mr. B.K. Das, learned Counsel for the petitioner and Mr. M.P. Goswami, learned Additional Public Prosecutor appearing for the State.

2. By this application filed under Section 528 of the BNSS, 2023, the petitioner has sought for custody of .32 pistol and arms licence bearing

licence no. LN04193A7A16919 (10766/III) to the petitioner.

3. The petitioner has challenged the order dated 08.08.2025 passed by the learned Session Judge, Dibrugarh in criminal revision 28(3) of 2025 by which the custody of the arms along with the licence was not given to the owner i.e. the petitioner.

4. The case started with the lodging of the ejahar dated 10.12.2023 by one Inul Haque, who stated that while he along with his driver was going in his vehicle with eight number of cows purchased from a seller, the petitioner and others coming on a vehicle stopped their vehicle and tortured them and took the vehicle to Tipling School and parked the vehicle in a dark place. It is also alleged that a petitioner and others had tortured them i.e. the informant and his driver and took money from them and when the seller of the cows reached the place of occurrence and when the receipts for the purchase of the cows were also shown, the informant and his driver were allowed to leave the place but the cows were set free and that later four cows were recovered with the help of police. Thereafter, on 30.01.2024, .32 pistol along with live ammunitions and empty magazine and the armed licence was seized from the wife of the one of the accused arrayed in the above mentioned cased i.e. Duliajan Case No. 317 of 2023.

5. Mr. Das submits that for custody of the said arms, the petitioner had

filed an application before the Court of Judicial Magistrate, First Class, Dibrugarh and by order dated 23.06.2025, the learned Court had held that the petitioner had misused the arms in commission of extortion and as such, the custody was not given and the zimma petition was rejected.

6. During the proceeding of the instant criminal petition, a report was sought for from the Investigating Officer of the aforesaid case as regards the custody of the arms to the petitioner is concerned and the learned Additional Public Prosecutor had produced the report from the Officer in Charge of Duliajan Police Station, wherein it was stated that during investigation, the Investigating Officer found out that the petitioner along with other co-accused were involved in the case and that the petitioner had used his licence arm the .32 pistol during the said offence. The report also speaks of a fact that the case is pending for non receipt of prosecution sanction against the petitioner under the Arms Act from District Magistrate, Dibrugarh and that after obtaining the sanction, the procedure for cancellation of arms licence would start.

7. It is seen in the instant case that while lodging the FIR, the informant had stated that some youths had stopped their vehicle and had tortured them and took the vehicle to some dark place and when they showed the receipt of the purchases made and when the seller of the cows came and

admitted that the informant purchased the same, those youths had left the place of occurrence. It is not stated in the ejahar that the youths had used arms while torturing the informant. It is much later on 30.01.2024, the arms was seized from the wife of the petitioner and in the report submitted to this Court, it is said that during investigation, the police found that arms was used by the petitioner during the offence. It is not seen as to whether any TIP is conducted in order to see the complicity of the petitioner in the said offence neither it is stated to have been established on evidence that the petitioner had used the said arms during the said offence. Moreover, the Hon'ble Apex Court had observed that seized items may not be kept in custody of the police for long and the same be given in zimma to the owner of the said article with the condition that he would give bond and necessary photographs and panchnama be prepared.

8. In view of the same, the .32 pistol as well as the arms licence in connection with the same bearing licence no. LN04193A7A16919 (10766/III) along with the live ammunitions and empty magazine and the pistol cover as mentioned in the seizure list be given in custody to the petitioner. However, before giving custody, the concerned police officer would complete the necessary formalities like taking a bond, taking photographs, preparing panchnama etc. and with the undertaking that the same would be produced

during the time of the trial as and when required.

9. Petition is disposed of.

JUDGE

Comparing Assistant